

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.823 OF 2023
WITH
INTERIM APPLICATION NO.15978 OF 2023

Jalaluddin Hukumllah and others ...Appellants
Versus
The Mumbai Municipal Corporation of Greater
Mumbai and others ...Respondents

...
Mr. Mohit Jadhav a/w Ms. Megha R. Shigavan, Mr. Shubham Shinde, for
Appellants.
Mrs. Smita Tondwalkar, for Respondent -MCGM.
Mr. Gajanan Dhotre, A.E. (B & F) Dept. 'T' Ward, Mumbai MCGM.

...
CORAM : SANDEEP V. MARNE, J.
DATE : OCTOBER 10, 2023.

P.C.:

1. The challenge in the present Appeal is to the order dated 27 September 2023 passed by the City Civil Court by which the prayer of the Appellants-Plaintiffs for grant of interim relief has been refused. Plaintiffs have instituted LC Suit No.2258 of 2023 to restrain the Municipal Corporation from taking any action in respect of structures located on land bearing Survey No.67 (part) C.T.S. No.723 at L.B.S. Road, Nahur, Taluka Kurla, Mulund (W), Mumbai 400 080 without following the due process of law. It appears that the Municipal Corporation has not issued any notice or taken any action in respect of any of the structures so as to create any cause of

action in favour of the Plaintiffs to file the suit. It appears that in the year 2018 notices were issued under Section 351 of the Mumbai Municipal Corporations Act, 1888 to some of the structures, occupiers of which have already instituted suits and interim orders are passed the details of which are given by the Appellants at Page 90 of the Memo of Appeal. Therefore it is quite incomprehensible as to what is the exact cause with which the Plaintiffs have filed LC Suit No.2258 of 2023.

2. Ms. Tondwalkar, the learned counsel appearing for Respondent-Municipal Corporation would submit that the Municipal Corporation has neither visited the structures in question nor has threatened the occupiers in respect of any proposed action of demolition or acquisition of land. She would submit that there is absolutely no cause of action for the Plaintiffs to file a fresh suit when the previously instituted suits are already pending.

3. Since the Municipal Corporation is not proposing to take any action against the structures of the Appellants-Plaintiffs, there is no question of grant of any ad-interim relief. The Appeal being devoid of merits, is dismissed without any order as to costs. In view of disposal of Appeal, Interim Application is disposed of.

(SANDEEP V. MARNE, J.)