

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO.936 OF 2023
WITH
IA/17286/2023 IN AO/936/2023**

Hind Rubber Industries Pvt. Ltd.	... Appellant
Versus	
Municipal Corporation of Greater Mumbai and Anr.	... Respondents

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Mr. J. S. Kini @ Mr. Pradhuman Chauhan i/b. Ms. Sapna Krishnappa for Appellant.

Ms. Smita V. Tondwalkar, for Respondent-MCGM.

Mr. Dhiraj Karande, AE present

Mr. Sudip Shinde, SE 'D' Ward (Bldg & fact.) present.

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**CORAM : SANDEEP V. MARNE, J.
DATE : 29 NOVEMBER 2023.**

P. C.:

. The present Appeal is filed challenging the Order dated 07 November 2023 passed by the City Civil Court rejecting Notice of Motion No.4042 of 2023, which was filed by the Appellant seeking recall of Order dated 14 November 2023. By that Order, the City Civil Court has refused to extend *ad-interim* relief on account of passing of the Judgment and Order dated 05 August 2023 by Division Bench of this Court in Writ Petition (L) No.11986 of 2022. In that Writ Petition the occupant, including Plaintiff had challenged declaration of classification

of the building in C-1 Category. The Writ Petitions have been dismissed by making certain observations. One of the observations made by this Court is that the demolition of the building cannot take place without finalizing the area statement.

2. Therefore there appears no doubt to the position that the building Nos.4 and 5, which are classified into C-1 category, now are required to be demolished.

3. So far as the issue of finalization of area statement is concerned, it appears that the area in respect of majority of the portion in occupation of the Plaintiff has already been measured. Petitioner's counsel is handed over copy of the area statement. Only in respect of 02 premises in building No.4 on ground floor, the premises were apparently found to be locked and hence could not be measured. Ms. Tondwalkar, the learned counsel appearing for Respondent-MCGM, on taking instructions from the officials of MCGM who are present in the Court, makes a statement that the area in respect of 02 premises on the ground floor which were found to be locked will be measured and statement would be provided to the Plaintiff within a period of 03 weeks from today.

4. This would ensure compliance with the observations made by the Division Bench of this Court in Judgment and Order 05 August 2023. The Division Bench has already observed that demolition cannot be undertaken unless area statement is finalized. Therefore until area

statement in respect of 02 premises, which were found to be locked is finalized and handed over to the Plaintiff, there is no question of demolition of building No.4.

5. Accordingly the present Appeal is disposed of by recording the statement made on behalf of Municipal Corporation as observed above. The Municipal Corporation can proceed with demolition of the building only after providing area statement in respect of the 02 premises of ground floor of building No.4 which were found to be locked. With the above observations the Appeal is disposed of. Since the Appeal is disposed of, nothing survives in the Interim Application and it is also disposed of.

SANDEEP V. MARNE, J.

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