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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.388 OF 2024
WITH
INTERIM APPLICATION NO.8923 OF 2024

Farooque Hidayatullah Khan Alias Farooque ... Appellant
Hidayatullah Housildar

Versus

Municipal Corporation of Greater Mumbai Thr. Its ...Respondent
Assistant Commissioner

Mr.Anoshak Daver a/w Mr.Rushabh Sheth, Mr.Sayeed Mulani, Mr.Iram
S. Memon i/b M/s.Mulani and Co. for the Appellant
Mr.Ashish Kamat, Senior Advocate a/w Mr.Chittest Dalmia for the
Caveator/Society
Mr.Jimmy F. Pochkhanwalla, Sr.Advocate a/w Ms.Smita Tandwalkar
a/w Mr.Tambe (Estate Officer E-Ward BMC)

CORAM: FIRDOSH P POONIWALLA, J.
DATED: 17th May, 2024
VACATION COURT

P.C.

1. This matter was on board on 14th May 2024 when this Court had passed an Order directing the Corporation to file an Affidavit in Reply putting on record the correct facts and stood over the matter to 10th June 2024.
2. In the meanwhile, the Corporation was restrained from taking any steps to dispossess the Appellant from the suit property.
3. Later on, the matter was mentioned at 2.45 p.m. in Chamber when Mr.Kamat, the learned Senior Advocate for the Caveator/Society, submitted that the Appeal has been moved by the Appellant without giving notice to Zam Zam Co-operative Housing Society despite Caveat No.2297 of 2024 having been filed by the Society. Mr.Kamat proposed to make submissions in

respect of the reliefs sought by the Appellant. For this purpose, the matter was stood over to today.

4. Today, both Mr.Kamat, the learned Senior Advocate for the Society and Mr.Pochkhanwalla the learned Senior Advocate for the Corporation state that, according to them, several documents have not been produced by the Appellant before this Court although they were a part of the record before the lower Court. Further, Mr.Kamat has also served a compilation of documents on the Appellant on 14th May 2024. It is their submission that if these documents had been placed before this Court, no ad-interim reliefs would have been granted by this Court.

5. Considering these facts, Mr.Daver, the learned counsel for the Appellant seeks some time to take instructions and consider the situation.

6. In the aforesaid circumstances, and perusing the compilation of documents filed by Mr.Kamat's client, the order passed restraining the Corporation from taking any steps to dispossess the Appellant from the suit property is recalled.

7. The Municipal Corporation shall also file its Affidavit on or before 27th May 2024.

8. Stand over to 27th May 2024.

(FIRDOSH P. POONIWALLA, J.)