

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 74 OF 2024

WITH

INTERIM APPLICATION NO. 766 OF 2024

IN

APPEAL FROM ORDER NO. 74 OF 2024

Mohammed Aslam Khan

...Appellant/Org. Plaintiff

Versus

Municipal Corporation of Greater Mumbai & Anr.

...Respondents

Mr. Atul Damle, Sr. Advocate a/w. Mr. Pratap Singh for the Appellant.

Mr. Dhrupad patil a/w. Mr. Om Suryavanshi i/b Ms. Komal Punjabi for the Respondent-BMC.

Mr. Kirankumar Annamwar, AE (B&F) 'L' Ward is present.

CORAM : GAURI GODSE, J.

DATE : 9th APRIL 2025

P.C.:

1. The learned Counsel for the Corporation had tendered a copy of an undertaking given by the Appellant on 27th March, 2025. The copy of the undertaking was taken on record on 8th April, 2025. On the request made by the learned Senior Counsel for the Appellant to respond to the copy tendered by the learned Counsel for the Corporation, the Appeal was directed to be listed today.

2. Today the learned Counsel for the Appellant has tendered affidavit dated 8th April, 2025 explaining the circumstances under which the undertaking was given to the Corporation.

3. The learned Counsel for the Corporation has tendered an affidavit in reply to the Appeal denying the allegations made against the officers.

4. In view of the undertaking already given to the Corporation to vacate the structure for the purpose of demolition, I do not see any reason to entertain this Appeal. However, the learned Senior Counsel for the Appellant submits that the Appellant be granted liberty to file an appropriate application in the pending suit to agitate the grievances made by the Appellant in his affidavit dated 8th April, 2025 tendered today. He further submits that the suit building is occupied by 25 tenants along with their families. He further submits that in view of the school exams of the children and being occupied by the families with children, some protection be granted to enable the Appellant to file an appropriate application in the pending suit, including application for amending suit and seeking appropriate relief.

5. The learned Senior Counsel for the Appellant, on instructions of the Appellant, who is present in Court, seeks leave to withdraw this Appeal with liberty to file appropriate application in the pending suit.

6. Leave granted. The Appellant is permitted to withdraw this Appeal with liberty to file an appropriate application in the pending suit as permissible in law including application for amending the suit. To enable the Appellant to file appropriate application and in view of the reasons stated for protection from demolition, I find it appropriate in the interest of justice to grant protection to the Appellant for a limited period i.e. up to 23rd April 2025.

7. The Appeal is disposed of as withdrawn with liberty as prayed.

8. In view of disposal of appeal, pending interim applications are disposed of as infructuous.

9. In view of the aforesaid, no coercive action be taken for demolition up to 23rd April 2025.

[GAURI GODSE, J.]