Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 316 OF 2024
WITH
INTERIM APPLICATION NO. 7768 OF 2024
IN
APPEAL FROM ORDER NO. 316 OF 2024

Bhupendra Onkarrao Lohkpure and anr .....Appellants

Vs.

Municipal Corporation of Greater Mumbai and anr .....Respondents

WITH
APPEAL FROM ORDER NO. 317 OF 2024
WITH
INTERIM APPLICATION NO. 7769 OF 2024
IN
APPEAL FROM ORDER NO. 317 OF 2024

Umakant Jiwan Tupe and anr ….Appellants

Vs.

Municipal Corporation of Greater Mumbai and anr ….Respondents

IRESH MASHAL

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Date: 2025.03.11 14:48:36 +0530

WITH
APPEAL FROM ORDER NO. 333 OF 2024
WITH
INTERIM APPLICATION NO. 7952 OF 2024
IN
APPEAL FROM ORDER NO. 333 OF 2024

Mubarak Ali Mohammed Sidique Shaikh ….Appellant

Vs.

Municipal Corporation of Greater Mumbai ….Respondents
and anr

WITH
APPEAL FROM ORDER ST NO. 37723 OF 2024
WITH
INTERIM APPLICATION ST NO. 37724 OF 2024
IN
APPEAL FROM ORDER ST NO. 37723 OF 2024

P. N. Umadevi Pillai ….Appellant

Vs.

Municipal Corporation of Greater Mumbai ….Respondents
and anr

Mr. Pradeep Thorat a/w Ms. Aditi Naikare for appellant in AO 316/2024 and 317/2024
Mr. Vishal Kanade for the appellant in AO 333/2024
Ms. Seema Hannurkar for appellant in AOST 37723/2024
Mr. Om Suryawanshi for respondent-BMC
Mr. D. J. Haldankar AGP for the State

CORAM : GAURI GODSE, J.

DATE : 10th MARCH 2025

ORDER:

APPEAL FROM ORDER NO. 316 OF 2024, APPEAL FROM ORDER NO. 317 OF 2024, APPEAL FROM ORDER NO. 333 OF 2024, APPEAL FROM ORDER ST NO. 37723 OF 2024:

1. Leave to amend in Appeal from Order No. 333 of 2024.

2. Amendment to be carried out forthwith.

3. Heard learned counsel for the appellants. Arguable points are raised.

4. Hence, admit.

5. Respective advocates appearing for the respondents waives notice.

INTERIM APPLICATION NO. 7768 OF 2024, INTERIM APPLICATION NO. 7769 OF 2024, INTERIM APPLICATION NO. 7952 OF 2024, INTERIM APPLICATION NO. 7952 OF 2024 AND INTERIM APPLICATION ST NO. 37724 OF 2024:

6. Rule on interim relief in terms of prayer clause (a). Rule made returnable forthwith.

7. Respective advocates appearing for the respondents waives notice.

8. Learned counsel for the applicants relied upon tax assessment extract which indicates that the suit structures were for the first time assessed on 31st March 1961. Learned counsel for the applicants rely upon the site plan showing the structures described as 15, 16, 17 and 18 on CTS 432B. Learned counsel for the applicants also rely

upon the conveyance deed by the original owners in favour of M/s. Jet Builders which describes structures belonging to the appellants in the schedule. Learned counsel for the applicants rely upon receipts for payment of rent to support their contentions that the suit structures are existing since prior to the datum line.

9. In view of the documents relied upon by the plaintiffs/appellants, prima facie, it appears that the suit structures are in existence prior to datum line. Hence, the validity of the impugned notice issued by the Corporation would be required to be examined after verifying the rival evidence that will be led during the trial.

10. Hence, during the pendency of the appeal, there will be interim relief in terms of prayer clause (a).

11. Appellants shall not create any third party rights or part with possession in favour of any third party.

12. Interim applications are disposed of in the above terms.

13. Pendency of these appeals and grant of interim relief shall not be construed as any stay to the further proceedings of the suits. The City Civil Court shall proceed with the suits.

[GAURI GODSE, J.]