

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 14970 OF 2024
IN
FIRST APPEAL NO. 647 OF 2022

ANAND
SUDHAKAR
SUDAME

Siddheshwar Bhuwan, Sahakari Griha-Nirman ..Applicant
Sanstha Maryadit

IN THE MATTER BETWEEN

Smita Sharad Shirsekar ..Appellant

Versus

The Assistant Assessor and Collector “C” Ward, ..Respondents
Brihan Mumbai Mahanagar Palika, Mumbai & ors.

None for the Corporation

Ms. Vaishali Choudhari, Advocate, for the Applicant/Original
Respondent No. 4

Mr. Sunil R. More, Advocate, for the Respondents/Original Appellants

CORAM : RAJESH S. PATIL, J.

DATE : 20.01.2026

P C.

1. It is submitted by an Advocate of the Original Appellants that, the Appellant is the Original Plaintiff before the City Civil Court, Bombay, who had filed a Suit challenging auction of her building conducted by the Municipal Corporation of Greater Mumbai (for short “**MCGM**”) for non-payment of property taxes.

2. Earlier, the Appellant had purchased the building in the year

1991 which was occupied by the tenants. After purchasing the building, since the taxes of the MCGM were not paid. Hence, the MCGM granted the Appellant instalments to clear the property charges. Though this facility was given to the Appellant, they did not pay the property taxes. Hence, the building was put for auction sale. The representative of the tenants participated in the auction sale on behalf of the tenants association and was declared as successful bidder on 27.07.2001 pursuant to which the MCGM issued a letter dated 12.09.2001 informing therein that the property was sold at Rs. 2,31,000/- and further, informing that from the said sum of Rs. 2,31,000/-, taxes of Rs. 1,18,763/- were adjusted by the MCGM. A sum of Rs. 50,000/- was reserved for advertisement and the balance amount was Rs. 62,237/-. Thereafter, the MCGM issued Certificate of Sale on 31.10.2013 in favour of the tenants association.

3. Being dissatisfied with auction sale, the same was challenged by the Appellant by filing suit on 14.05.2004 before the High Court, Bombay. The said suit was subsequently transferred to the City Civil Court, Bombay, as pecuniary jurisdiction of the City Civil Court, Bombay was enhanced. In the Suit, after the evidence was led by both the parties, the Advocate for the parties argued the matter on merits and ultimately, by Judgment and Decree dated 28.03.2019, L. C. Suit

No. 6918 of 2004 was dismissed.

4. Aggrieved by the Judgment and Decree, the Original Plaintiff has filed the present First Appeal.

5. While the suit was pending before this Court, notice of motion was preferred by the Appellant/Original Plaintiff in the pending suit. By an order dated 26.07.2004, when the Defendants were not present while recording the submissions of the Plaintiff, it was noted that if the Plaintiff deposits arrears of property taxes for the financial year 2003-2004 with the MCGM or in this Court within a period of four weeks, there will be ad-interim relief in terms of prayer clause (a).

6. By prayer clause (a), the Defendants were restrained from carrying out repairs or construction in the suit property. Subsequently, the suit got transferred to the City Civil Court, Bombay and the same was dismissed after hearing the parties.

7. In the First Appeal, the Interim Application has been preferred by the Appellant/Original Plaintiff. In the Interim Application on 05.07.2022, this Court restrained the Respondents from demolishing the suit building and/or re-developing and/or re-constructing the same.

8. Learned Counsel for the Applicant/Original Respondent No. 4 submits that the tenant – society is registered under the Maharashtra

Co-operative Societies Act, 1960. The said registration was done after the auction purchase. The husband of the landlord was present when the auction was conducted. By a reasoned Judgment and Order, the Suit has been dismissed. There is no merit in the First Appeal and the same should be dismissed.

9. This First Appeal is of the year 2022. The First Appeal is an admitted matter. The paper book is ready. My assignment of the First Appeal is of the years 2022 and 2023. Hence, by consent of both the learned Counsel, stand over to **10.02.2026** at **3.00 p. m.**.The matter to come up on board under the caption "*For Final Hearing*".

(RAJESH S. PATIL, J.)