

Amberkar

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

**APPEAL FROM ORDER NO. 307 OF 2025
WITH
INTERIM APPLICATION NO. 8391 OF 2025**

Garden Securities And Properties LLP .. Appellant

Versus

Municipal Corporation of Greater Mumbai .. Respondent

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- Mr. Simil Purohit, Senior Advocate a/w Mr. Rubin Vakil & Mr. Yashwant Chudasama i/by Ms. Roma Chudasama , Advocates for Appellant
- Mr. Vineet Naik, Senior Advocate a/w Mr. Drupad Patil, Mr. Sachin Vajale i/by Ms. Komal Punjabi, Advocates for Respondent - Corporation
- Mr. Abhijit V. Sawai, RE R/Central present
- Mr. Nikhil Kansatwad SE(Roads) R. Central present

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CORAM : MILIND N. JADHAV, J.

DATE : APRIL 10, 2026

P. C.:

1. Heard Mr. Simil Purohit, learned Senior Advocate for Appellant and Mr. Vineet Naik, learned Senior Advocate for Respondent.

2. At the outset, Mr. Purohit, learned Senior Advocate seeks leave to implead State of Maharashtra as Respondent. Leave granted. Amendment is permitted to be carried out forthwith. Re-verification stands dispensed with. Amendment is carried out in presence of Court. It is endorsed by the Court.

3. By the present Appeal, the Appellant has challenged the order dated 16.05.2025 passed by learned Judge of City Civil Court (Borivali Division at Goregaon). By the impugned Order the learned Judge of Trial Court has rejected prayer made by original Plaintiff for ad-interim relief.

4. L.C. Suit No. 1041 of 2025 has been filed by Appellant / Plaintiff seeking a declaration that the Notice dated 16.04.2025 issued by Respondent Corporation under Section 299 of Mumbai Municipal Corporation Act, 1888 and order dated 08.05.2025 are illegal. Said notice and order are issued in respect of land admeasuring 3127.43 sq.mtrs (approximately) from out of CTS No. 177. According to Appellant, in the facts of present case, the Municipal Corporation is not entitled to invoke powers conferred by Section 299 of the said Act.

5. Respondent Municipal Corporation has filed affidavit in reply contending that said land is required for construction of road, which is major connecting link between two existing municipal roads. This road is parallel to Western Express Highway and once the work of road is completed the traffic on Western Express Highway will get major relief. The physical demarcation of site is completed on 05.07.2025. The Corporation has already taken over the possession of CTS Nos. 264 (part), 267(part), 274 (part), 274/b/3 (part), 273/C (part), 273/D (part), 274/A/3 (part) 274/A/2 (part), which are affected by

road regular line. Tender for construction of road has also been finalized through contractual agency.

6. Taking into consideration the larger public interest the Appellant has agreed to surrender possession of subject land subject to payment of compensation payable as per provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

7. On instructions of the Municipal Commissioner, Mr. Vineet Naik, learned Senior Advocate appearing for Municipal Corporation submitted that since the Appellant has agreed for handing over of possession of land immediately the Municipal Corporation will pay the compensation as per the provisions of said Act of 2013 and not as per Section 301 of Mumbai Municipal Corporation Act, 1888.

8. Hence, by consent of parties following order is passed;

8.1. The Notice dated 16.04.2025 issued by Municipal Corporation and Order dated 08.05.2025 are quashed and set aside.

8.2. Statement made by advocate for Appellant that Appellant shall hand over possession of subject land immediately is accepted as undertaking to this Court.

8.3. Time of two weeks is granted to the Appellant to remove articles, machines etc, from the sheds, falling within the Road line.

Liberty is granted to the Appellant to seek extension of time, if required.

8.4. Corporation shall submit the proposal to the State Government for acquisition of subject land within period of four weeks from today. This statement of the Corporation is accepted as undertaking to the Court. However, liberty is granted to seek extension of time, if required.

8.5. State Government is directed to process the proposal and complete the acquisition proceedings within period of two months from the day of the Corporation submitting the proposal under Clause 8.4 above. The Collector is directed to publish and declare the Award after following the procedure contemplated by the said Act of 2013.

8.6. In light of the above consent and pending completion of acquisition proceedings under the said Act of 2013, the Municipal Corporation shall be at liberty to proceed further for construction and completion of road.

9. Aforesaid order is passed in facts and circumstances noted in the above paragraphs and most importantly by consent of parties and since the parties have agreed to follow the procedure prescribed under Section 126 (1)(c) of the MRTP Act, 1966.

10. Needless to state that this order shall not be treated as precedent and it has been passed in the present facts and circumstances of the case considering the exigency expressed in taking over the property for a public purpose which is vital, necessary and essential for the city of Mumbai. In that view of the matter, Suit proceeding pending before the City Civil Court shall be withdrawn by Appellant / Plaintiff on the basis of server copy of this order. Learned Trial Court shall accordingly pass the appropriate orders.

11. Copy of this order and Appeal from Order proceedings shall be served on the State Government by Advocate for Appellant / Plaintiff forthwith.

12. With the above directions, Appeal from Order is disposed. Pending Interim Application is disposed.

[MILIND N. JADHAV, J.]

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