



Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.54 OF 2023
a/w
INTERIM APPLICATION NO.609 OF 2023
IN
APPEAL FROM ORDER NO.54 OF 2023

The Municipal Corporation of Greater Mumbai]	Appellant
Vs.		
Shaila Maruti Naik (Deceased) through Lrs. R.M. Bhagwat and others]	Respondents

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Mr. Ashutosh Gavnekar a/w Ms. Seena Rawade, for Appellant.

Mr. Rahul Raut i/b M/s. N.N. Vaishnawa & Co., for Respondents
No.1 (a) and 1(b).

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 4th July, 2024.

P.C.

1. Heard learned Counsel for the parties.
2. The Trial Court by an order dated 16th March, 2021 made the Notice of Motion absolute despite the fact that none of the respondents-plaintiffs are in occupation of the flats which are



admittedly in a dilapidated condition as contended by the learned Counsel for the appellant – M.C.G.M. Learned Trial Court in paragraph 22 of the impugned order has strangely observed that though the occupants have vacated the flats, the same cannot be a ground to reject the Notice of Motion of the respondents - plaintiffs. It appears that the Trial Court turned Nelson's eye to the fact that the building in question is in a dilapidated condition which is required to be pulled down.

3. The impugned order is, therefore, quashed and set aside.
4. The parties are relegated to the Trial Court to get their rights adjudicated on merits, in accordance with law.
5. The Appeal From Order stands disposed of in the aforesaid terms with no order as to costs.
6. Needless to state that this Court has not touched the merits and demerits of the case.
7. All the rights and contentions of the parties are kept open.



8. In view of disposal of Appeal From Order, Interim
Application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]