

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

FIRST APPEAL NO.2288 OF 2007

Shri Mahilal Jain

Appellant/plaintiff

vs.

Municipal Corporation of Gr.  
Mumbai.

Respondent/Defendants

Mr.Bipin Joshi for the appellant.

Mr.Nisha Dabhade for B.M.C.

**CORAM : ANOOP V. MOHTA,J.**

**DATED : 31st October, 2007**

**P.C.**

In view of the common order passed in First Appeal Stamp No.26076/2006 -Mr.Dhiraj Shah vs. Municipal Council of Gr.Bombay & ors, based on the decision dated 5th May, 2006,in First Appeal No.720/06 the impugned judgement and decree is set aside in the following terms:

(i) The impugned judgement and decrees are set aside.

(ii) L.C.Suit No.392/2001 is restored to file. The parties will appears before the learned trial Judge on 21st November, 2007 at 11.00 a.m. The learned trial Judge will frame proper issues arising out of the pleadings and the parties will be at liberty to lead evidence on those issues in addition to the evidence

which is already on record.

(iii) The learned trial Judge will decide the suits afresh in the light of the observations made in this judgement and after considering the evidence already on record and the evidence which will be adduced after the order of remand. The learned trial Judge will decide the suits as expeditiously as possible and preferably on or before 31st August, 2008.

(iv) Till disposal of the suits the interim order which was operating during the pendency of the suit will continue to operate till disposal of the suit.

(v) All contentions of the parties are kept open.

(vi) The appeals are partly allowed in above terms with no order as to costs.

(vii) The parties and the concerned Court to act on an authenticated copy of this order.

**[ANOOP V. MOHTA,J.]**