

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE SIDE JURISDICTION.

APPEAL FROM ORDER (ST) NO.6272 OF 2015
WITH
CIVIL APPLICATION (ST) NO.6274 OF 2015

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. K. P. Tiwari i/b. K. P. Tiwari & Co. for the Appellant
Mr. S. K. Sonawane for the Respondent.

CORAM : K. K. TATED, J.
DATE : MARCH 9, 2015

P.C.:

1. Heard. This appeal is preferred by the Plaintiff challenging the order dated 23/02/2015 passed by the Bombay City Civil Court, Mumbai in draft Notice of Motion in L.C.Suit No.480/2015 declining to grant an ad-interim relief.

2. In the present proceedings, the Respondent Corporation issued notice dated 17/01/2015 under section 351 of the Mumbai Municipal Corporation Act, 1888 in respect of the structure on terrace of Kapadia Multi Specialty Hospital, M.G. Road, Goregaon (W), Mumbai 400 062 and order dated 10/02/2015 passed by the Designated Officer holding that the suit structure is unauthorised.

3. The learned counsel for the Appellant, after taking instructions from his client, makes a statement that the Appellant is ready and willing to make an appropriate Application to the Corporation for regularization of the suit structure, as they have an additional FSI. He submits that the Appellant undertakes to remove unauthorised construction, in case, the outcome of the regularization Application goes against the Appellant. With this understanding, following order is passed:

- a) The Appellant is permitted to make an appropriate Application for regularization of suit structure to the Corporation within 2 weeks from today, along with all annexures as per the Rules and Regulations.
- b) If Application is filed within stipulated time as stated hereinabove, the Respondent Corporation is directed to decide the same and communicate the order to the Appellant or their Advocate within 8 weeks from today.
- c) If order goes against the Appellant, the Appellant to remove the unauthorised structure within 4 weeks thereafter, failing which the Respondent Corporation is entitled to remove the same.
- d) Parties are directed to maintain status-quo in respect of the suit structure till communication of the order by the Respondent Corporation, to the Appellant and/or his Advocate.

e) In case the Appellant fails to make an appropriate Application for regularization within stipulated time as stated hereinabove, the Respondent Corporation is entitled to take appropriate steps for removal of the structure.

f) The Appellant undertakes to make an appropriate Application before the Trial Court for withdrawal of the suit as well as the Notice of Motion.

g) The Appeal from Order as well as the Civil Application stand dismissed as withdrawn.

JUDGE