

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

APPEAL FROM ORDER (ST) NO.7118 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. Mayur Khandeparkar a/w. Hardik Desai i/b. thakore Jariwala & Associates for the Appellant
Mr. A. K. Nandanwar for the Respondent.

CORAM : K. K. TATED, J.
DATE : MARCH 13, 2015

P.C.:

1. Mentioned. Not on board. At the request of learned counsel for the Appellant, the matter is taken on board for urgent orders.

2. This appeal is preferred by the Plaintiff challenging the order dated 27/01/2015 passed by the Bombay City Civil Court, Mumbai in draft Notice of Motion in L.C.Suit No.92/2015 refusing to grant ad-interim relief. The learned counsel for the Plaintiff submits that in the present proceedings, the Respondent Corporation issued show cause notice under section 351 of the Mumbai Municipal Corporation Act, 1888 in respect of the alleged unauthorised construction of room admeasuring 4.20 x 4.10 meters in fire

refugee area. He submits that the Society has given no-objection to use the additional FSI which is available on CTS No.195/173/3 of village Andheri (W), Mumbai situated at JVPD Scheme Mumbai – 400 049. He further submits that they already preferred regularization Application dated 20/01/2015 with the Respondent Corporation. Same is pending for decision.

3. The learned counsel for the Appellant, after taking instructions from his client makes a statement that the Appellant is ready and willing to file an affidavit cum undertaking before this court in case the regularization Application is decided by the Corporation against them, they will remove unauthorized construction on their own within 2 months from the date of communication of the order that may be passed by the Corporation. He submits that the said undertaking will be filed by them by Monday.

4. Considering the above mentioned facts and as the Application filed by the Applicant for regularization is pending before the Corporation, following order is passed:

- a) The Respondent Corporation is directed to decide the Appellant's regularization Application dated 20/01/2015 on its own merits as early as possible but in any case within 8 weeks from today and communicate the order in writing to the Appellant or their Advocate.
- b) Till that time, the parties are directed to maintain status-quo as on today.
- c) If the regularization Application is rejected by the Corporation, the Appellant to remove the unauthorised construction within 2 months from the date of communication of the order.
- d) The Appellant to file an undertaking as stated hereinabove on Monday, 16/03/2015.
- e) In view of the above mentioned facts, the Appellant seeks liberty to withdraw the Appeal from Order as well as the Civil Application. Same is allowed to be withdrawn. Appeal from Order as well as the Civil Application stand dismissed as withdrawn.
- f) S.O. to 17/03/2015 for compliance.

JUDGE