

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

**APPEAL FROM ORDER NO. 486 OF 2015
WITH
CIVIL APPLICATION NO. 624 OF 2015**

Masjid Noor Waris Darululoom Aliya Warsiya .. Appellant
V/s.
Municipal Corporation of Greater Mumbai ... Respondent

Mr. Mohit Jadhav for the appellant.
Mrs. M.R. Bhoir for the respondent/corporation.

**CORAM : K. K. TATED, J.
DATED : 22/04/2015.**

PC.:

. Heard learned Counsel for the parties.

2 This Appeal from Order is preferred by the plaintiff challenging the order dated 27th March, 2015 passed by Bombay City Civil Court, Mumbai in draft Notice of Motion in L.C. Suit No. 848 of 2015 declined to grant ad-interim relief in terms of draft Notice of Motion.

3 The learned counsel for the appellant submits that the respondent corporation issued notice under Section 55 of M.R.T.P. Act, 1966 dated 13.02.2015 in respect of alleged unauthorised construction i.e. unauthorised fencing of GI sheet adm. (40' length & 8' ft height) at Teen hath dargha, near Noor Waris Masjid, Tulshet pada, Bhandup (W), Mumbai – 78.

4 The only contention raised by the learned counsel for the appellant is that the said notice dated 13.02.2015 issued by the

respondent corporation, though they have no power to do so. He submits that as per Section 2(19) of M.R.T.P Act, 1966, the respondent is not declared as a planning authority to issue notice under Section 55. He submits that these facts are not considered by the Trial Court. Hence, this Hon'ble Court be pleased to grant ad-interim relief in terms of Notice of Motion restraining corporation to proceed as per said notice dtd. 13.02.2015, which is issued without any authority.

5 On the other hand, the learned counsel for the respondent corporation vehemently opposed the present Appeal from Order. She submits that the corporation have authority to issue notice under Section 55 of the said Act, even if the suit premises is situated in the slum area. In support of that, she relies on Section 3z-1 of the Maharashtra Slum Area (Improvement, clearance & redevelopment) Act, 1971.

6 I heard both the sides at length. Considering the provisions of Section 3z-1 of the Slum Act, it is crystal clear that the respondent corporation have jurisdiction to issue notice in respect of unauthorised construction.

7 Considering this fact, I do not find any substance in the present Appeal from Order. Same is rejected.

8 In view of rejection of Appeal from Order, nothing survives in the Civil Application. Hence, same is dismissed as infructuous.

(K.K.TATED, J.)