

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

APPEAL FROM ORDER (ST) NO.10907 OF 2015
WITH
CIVIL APPLICATION (ST) NO.10911 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. Uday Warunjikar i/b. Pravartak Pathak for the Appellant

Mr. H. G. Bhambhare for the Respondent No.3.

Mr. A. K. Nandanwar for Municipal Corporation

CORAM : K. K. TATED, J.

DATE : APRIL 21, 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 20/03/2015 passed by the Bombay City Civil Court, Mumbai in Notice of Motion No.37/2013 in L.C.Suit No.66/2013 dismissing the Plaintiff's Notice of Motion.

3. In the present proceedings, the Respondent Corporation issued notice under section 351 of the

Mumbai Municipal Corporation Act, 1888 dated 05/12/2012 calling upon the Plaintiff to remove unauthorised enclosure of front side common passage of balcony admeasuring. 9'1" x 5'8" by putting wooden door & sliding window & enclosure of rear side balcony & provision of w.c. therein admeasuring. 20'5" x 2'8" at flat No.9, 3rd Floor, Bedekar Sadan No.7, Mogal Lane, Mahim, Mumbai – 400 016.

4. Thereafter the Plaintiff filed reply dated 13/12/2012. The Designated Officer of the Municipal Corporation passed order dated 25/12/2012 directing the Plaintiff to remove the said unauthorised construction within 7 days from the receipt of the order. Hence, the Plaintiff filed the L.C.Suit No.66/2013 along with Notice of Motion No.37/2013 for interim relief which was dismissed by the Trial Court. Hence, the present Appeal from Order.

5. The learned counsel for the Appellant, after taking instructions from his client submits that the Appellant wants to make an appropriate Application to the Municipal Corporation for regularization of the unauthorised construction as per notice dated 05/12/2012 issued by the

Respondent Corporation under section 351 of the Mumbai Municipal Corporation Act, 1888. He submits that he also received instructions from the Appellant to withdraw the Appeal from Order for making an appropriate Application to the Corporation within stipulated time.

6. Considering the submissions made by the learned counsel for the Appellant and the statement made by the learned counsel for the Appellant, following order is passed:

- a. The Appeal from Order and Civil Application stand dismissed as withdrawn.
- b. The Appellant is permitted to file an appropriate Application within 6 weeks from today for regularization of the alleged unauthorised construction as per notice dated 05/12/2012 issued by the Municipal Corporation under section 351 of the Mumbai Municipal Corporation Act, 1888.
- c. If an Application is made within stipulated time as stated hereinabove, the Respondent Corporation/ competent authority to decide the same within 4 weeks thereafter.

d. Till the regularization Application is decided by the Corporation and for three weeks thereafter the Respondent Corporation shall not take any coercive action against the Appellant pursuant to the notice dated 05/12/2012.

e. If an Application is not filed within stipulated time as stated hereinabove, the Respondent Corporation is free to take appropriate action against the Appellant pursuant to the notice dated 05/12/2013 and order dated 24/12/2012 passed by the Designated Officer.

f. Liberty granted to the Respondent No.3 to take appropriate steps if they so desire in accordance with law.

JUDGE