

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

APPEAL FROM ORDER NO.613 OF 2015
WITH
CIVIL APPLICATION NO.757 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. R. D. Suryawanshi i/b. Ashutosh O. Shukla for the Appellant
Mrs. M. R. Bhoir for the Municipal Corporation

CORAM : K. K. TATED, J.
DATE : APRIL 29, 2015

P.C.:

1. Heard. By this appeal, the Appellant Plaintiff challenges the order dated 14/04/2015 passed by the Bombay City Civil Court, Mumbai in draft Notice of Motion in LC.Suit No.992/2015 declining to grant ad-interim relief.

2. The learned counsel for the plaintiff submits that the Respondent Corporation issued notice under section 351 of the Mumbai Municipal Corporation Act, 1888 dated 10/02/2015 calling upon the Plaintiff to remove unauthorised construction on open space which is at back side of existing house with the help of BMW @ 2.75 m x 0.80 m. He submits that thereafter the Plaintiff

immediately filed reply dated 23/02/2015. He submits that the considering the reply, the Designated Officer of the Municipal Corporation passed order dated 13/03/2015 directing the Plaintiff to remove unauthorised construction.

3. The learned counsel for the Appellant submits that he received instructions from his client that they wish to make an Application to the Municipal Corporation for regularization of the structure as per notice under section 351 of the MMC Act. Hence, he seeks liberty to withdraw the Appeal from order as well as Civil Application with liberty to file an appropriate Application before the Municipal Corporation. He further submits that till then the Municipal Corporation may be restrained from taking any action against the suit structure.

4. Considering the submissions made by the learned counsel for the Appellant following order is passed:

a. The Appellant Plaintiff is permitted to withdraw the Appeal from Order and Civil Application. Same stand dismissed as withdrawn.

b. The Appellant Plaintiff undertakes to make an appropriate Application to withdraw the LC.Suit No.992/2005 within 2 weeks from today.

c. The Appellant Plaintiff is permitted to make an appropriate Application for regularization/permission in respect of the suit structure as described in notice dated 18/02/2015 under section 351 of the MMC Act issued by the Municipal Corporation, within 4 weeks from today.

d. If such an Application is made within stipulated time as stated herein above, the Municipal Corporation is directed to consider the same on merits and decide it within 8 weeks thereafter.

e. The Respondent Corporation is directed to communicate its decision on the said Application to the Plaintiff in writing.

f. Till decision of the said Application and communication thereof to the Plaintiff, the parties are directed to maintain status quo as of today. in respect of the said unauthorised construction as described in notice under section 351 of the MMC Act.

g. If Application is not made within stipulated time as stated herein above, Respondent / Corporation is free to take action as per notice under section 351 of the MMC Act & the order passed by the Designated Officer.

h. Parties to act on a copy of this order duly authenticated by the Sheristedar of this court.

JUDGE