

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

CIVIL APPLICATION NO.2236/2015
IN
FIRST APPEAL NO.732/2015

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. Mohit Jadhav for the Applicant
Mrs. M. R. Bhoir for the Respondent.

CORAM : K. K. TATED, J.
DATE : JULY 10, 2015

P.C.:

1. Heard. This Application is preferred by the Plaintiff restraining the Respondent-claimant from taking any coercive action pursuant to the notice dated 29/05/2008, 22/06/2010 and the order dated 31/05/2010 in respect of the suit structure i.e. mezzanine floor admeasuring 14.5 x 18 = 261 sq.ft. situated at Micheal Pareira Chawl, Vikhroli (E), Mumbai – 400079, as described in plaint.

2. The learned counsel for the Applicant submits that the Trial Court erred in coming to the conclusion that the said mezzanine floor was not shown in the sale deed dated 10/03/1997. Therefore, same is unauthorized. He submits that

the Applicant Plaintiff placed on record in the Trial Court the assessment order dated 20/08/2014 issued by the Respondent- Corporation showing that the structure was assessed since 31/03/1961 (Exhibit- 24). Said document was not considered by the Trial Court at the time of passing the impugned decree.

3. The learned counsel for the Respondent Corporation vehemently opposed the Civil Application. She submits that the Applicant has not placed on record any evidence about the existence of the structure i.e. mezzanine floor. She submits that even the sale deed dated 10/03/1997 produced by the Applicant before the Trial Court does not show the existence of the mezzanine floor. Hence, the Applicant is not entitled to any relief in the present proceedings.

4. Considering the submissions made by the learned counsel for the Applicant, the averments made in the Application and Exhibit-24 i.e. assessment order, I am satisfied that the Applicant has made out a case for allowing the present Civil Application.

5. Hence, the following order:

- a. During pendency of the First Appeal, the Respondent- Corporation is restrained by an order of injunction from taking any coercive action against the Applicant pursuant to the notice dated 29/05/2008, 22/06/2010 and order dated 31/05/2010 in respect of the suit structure i.e. mezzanine floor admeasuring $14.5 \times 18 = 261$ sq.ft. situated at Micheal Pareira Chawl, Vikhroli (E), Mumbai – 400079, as described in plaint.
- b. Liberty granted to the Respondent-claimant to issue fresh notice after following due process of law, if they so desire.
- c. Civil application stands disposed off accordingly.

JUDGE