

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

**APPEAL FROM ORDER NO.861 OF 2015
WITH
CIVIL APPLICATION NO.1056 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.Prashant Surve for the appellant

Mr.A.V.Divarte for the BMC

CORAM : K.K.TATED, J.

DATED : 14/07/2015

PC:

1 Not on board. At the request of Advocate for the appellant, matter is taken on board for urgent orders.

2 This Appeal from Order is preferred by plaintiff challenging the order dated 25.6.2015 passed by Bombay City Civil Court, Mumbai in draft Notice of Motion in L.C.Suit No.2690 of 2013 declining to grant ad-interim relief.

3 The learned counsel for the appellant submits that in the present proceeding, respondent Corporation issued notice under section 53(1) of the Maharashtra Regional & Town Planning Act, 1966 in respect of unauthorised development which is as under:

“2) Unauthorized construction of slab portion on the back side of the building at 1st floor level of the building.”

4 The learned counsel for the appellant submits that on the said slab, there is Electric Sub-statio of Reliance Infrastructure Ltd. He submits that he received instruction from his client to withdraw the present Appeal from Order with liberty to file appropriate application to the Corporation for regularisation of the said unauthorised structure.

5 Considering the submissions made by the learned counsel for the appellant and the impugned order passed by Trial Court, following order is passed:

- a) Appeal from Order stands dismissed as withdrawn.
- b) No order as to costs.
- c) Appellant is permitted to make appropriate application to the respondent Corporation for regularisation of the suit structure as per notice under section 53(1) of the MRTP Act, 1966 within four weeks from today failing which respondent Corporation is entitled to take appropriate application as per law.
- d) If application is made within stipulated time

as stated hereinabove respondent Corporation is directed to decide the said application as early as possible but in any case within 8 weeks from the date of receipt of the said application and communicate their decision/order to the appellant in writing.

e) Till the order is communicated to the appellant, parties are directed to maintain status quo as of today.

f) Appellant undertakes to make appropriate application before the Trial Court for withdrawal of L.C.Suit No.2690 of 2013 with pending Notice of Motion within two weeks from today.

g) In view thereof, Civil Application does not survive. The same is also dismissed as infructuous.

(K.K.TATED, J.)