

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

CIVIL APPLICATION (ST.) NO.22727 OF 2015
IN
APPEAL FROM ORDER (L) NO.22725 OF 2015

Shri Rammurat Ramlakhan Yadav	...	Appellant
Vs.		
The Mumbai Municipal Corp. of Greater Mumbai	...	Respondents

ALONGWITH
CIVIL APPLICATION (ST.) NO.22735 OF 2015
IN
APPEAL FROM ORDER (L) NO.22734 OF 2015

Shri Rajan Ramchandra More	...	Appellant
Vs.		
The Mumbai Municipal Corp. of Greater Mumbai	...	Respondents

Sandesh Patil, Adv. i/b. Aslam Malik, Adv. for appellants.
Mr. Amol Diwate, Adv. for respondent in MMC.

CORAM : MRS. ROSHAN DALVI, J.
DATE : 21st August, 2015.

P.C. :

1. The appeal is filed against the order of Bombay City Civil Court dated 10th August, 2015 rejecting the appellants Notice of Motion. The appellants case is that it had a structure along side the Goderej Compound Wall, opposite Eastern Express Highway, Vikhroli, and the appellant's structure could be tolerated only if it was prior to 1962. The learned judge has rightly concluded that that requirement is not even prima facie shown. The appellant's structure was not shown to be in existence prior to the datum line in 1962.

2. The appellant relied upon the patch holders card

No.213317. A patch holder card is issued in respect of government land. No government can issue a patch holder card upon any citizens private land. It is contended by the defendant MMC that the patch holder card is forged. The contention stands to reason in view of the appellant's statement in paragraph 1 of the plaint itself showing that the suit structure is on private land.

3. The argument on behalf of the appellant / plaintiff that the government circular dated 27th December, 1996 would apply is wholly incorrect. Consequently the contention that the appellant's structure should have been only prior to 1st January, 1995 is wholly misconceived. The appellant has not made out any case of protection of the structure.

4. The Notice of Motion is correctly dismissed. The order is confirmed. The appeals are dismissed.

5. Both Civil Applications are disposed of accordingly.

6. The ad interim order of injunction dated 7th March, 2012 shall continue for two weeks.

(ROSHAN DALVI, J.)