

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.989 OF 2014
WITH
CIVIL APPLICATION NO.1204 OF 2014

Rukmaji Laxman Tambe	...Appellant/Plaintiff
versus	
The Mumbai Municipal Corporation	...Respondent/Defendant

Mr. Anjani Kumar Singh i/b. Mr. Lex Remedeum for Appellant.
Mr. A.K. Nandanwar for Respondent-BMC.

CORAM : K.K. TATED, J.

DATE : 10TH MARCH, 2015

P.C. :-

. Heard the learned counsel for the parties.

2] This Appeal from Order is preferred by the original Plaintiff challenging the order dated 12-09-2014 passed by the Bombay City Civil Court in Notice of Motion No. 2034 of 2014 in L.C. Suit No. 1867 of 2014 declining to grant ad-interim relief.

3] In the present proceeding, the Respondent-Corporation issued notice dated 22-02-2013 under Section 488 of the Mumbai Municipal Corporation Act, 1888 and thereafter another notice under the same Section 351 of the MMC Act dated 03-08-2013 in

respect of unauthorized construction work at 2nd floor with Brick masonry walls & ladi coba slab approx. size Part(A) 32'-0" x 100'-0" and part (B) 35'-0" x 79'-0" and second floor of room admeasuring 11'-6" x 17'-0" with Brick Masonry walls & A,C, sheet roof at Tambe High School, Ganesh Mandir Road, Rawalpada Dahisar (East).

4] With reference to the said notice, the Appellant submitted the documents to justify their case. On the basis of those documents, the Assistant Engineer (Building & Factories) Dahisar R/North Ward are not satisfied and passed the order dated 08-07-2014 holding that the Appellant failed to produce the documentary evidence to show that they carried out the construction as per rules. Hence, the Appellants filed Long Cause Suit No. 1867 of 2014 and moved for ad-interim relief.

5] The learned counsel for Appellant after taking instructions from his client who is present in the Court makes statement that they are ready and willing to file appropriate application for regularization along with all documents as per rules. To that effect, he has placed on record the affidavit cum undertaking dated 10-03-2015 duly affirmed by Mr. Rukmaji Laxman Tambe, the heard trustee of Tambe Education Society. The same is taken on record.

6] In view of the said undertaking given by the Appellant, following order is passed:

a) Appellant is allowed to file appropriate application for regularization of suit construction with Corporation along with all the documentary evidence within four weeks from today.

b) Respondent-Corporation is directed to decide the regularization application of Appellant within eight weeks thereafter and communicate the order in writing to the Advocate for the Appellant or Appellant.

c) If the application is not filed within the stipulated time, the Respondent-Corporation is free to take action in respect of unauthorized construction in accordance with law.

d) If application filed within stipulated time, the parties are directed to maintain status-quo as of today till the decision is communicated to the Appellant by the Respondent-Corporation on their regularization application.

e) Undertaking given by Appellant by affidavit dated 10th March, 2015 in paragraph 4 is accepted.

f) Appeal from Order as well as Civil Application dismissed as withdrawn.

g) No order as to costs.

(K.K. TATED, J.)