

AOST.30094/2015(production matter)(1)

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

**CIVIL APPLICATION (ST) NO. 30099 OF 2015
IN
APPEAL FROM ORDER (ST) NO. 30094 OF 2015**

Rambali Bharat Yadav ...Appellant/Orig. Plaintiff
Vs.
Brihanmumbai Municipal Corpn. ...Respondent/Orig.Defendant

Ms. Aparna Devkar i/b. M.P. Vashi & Associates for the Appellant
Mr. A.V. Diwate for Respondent BMC

**CORAM : MRS. ROSHAN DALVI, J.
DATED : 30TH OCTOBER, 2015**

P.C. :

1. No prayer is asked for in this application. However Counsel on behalf of the applicant states that the ad-interim order earlier passed by the trial Court be continued.
2. The applicant must make out a prima facie case to be granted extension of any ad-interim relief.
3. The suit is in respect of protection of construction structure with brick masonry walls and rolling shutter with AC sheet roof.

4. Due legal process has been followed. The appellant has replied to the notice which has been considered in the order of the Assistant Commissioner dated 2nd January, 2012. That order has been impugned in the suit. It is the plaintiff's case that the structure has been in existence since last 31 years. Hence the suit structure is stated to have been in existence since 1980 as per the case of the plaintiff. Such a structure cannot be protected.
5. Counsel on behalf of the plaintiff contended that the structure was in existence prior to 1961, but the documents are not found. Hence the case that the structure was in existence prior to 1961 is not even prima facie shown. Consequently the ad-interim relief cannot be extended.
6. Civil Application is dismissed.

(ROSHAN DALVI, J.)

CERTIFICATE

**Certified to be true and correct copy of the original signed
Judgment /order.**