

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

**APPEAL FROM ORDER NO. 316 OF 2016
ALONG WITH
CIVIL APPLICATION NO. 405 OF 2016
AND
CIVIL APPLICATION NO. 406 OF 2016**

Shri Pramod Vashudeo Baria ... Appellant/Applicant

v/s

Municipal Corpn. of Gr. Mumbai ... Respondent

Mr.G.C. Singh i/by Shweta Singh for the appellant/applicant in both civil applications.

Mrs.M.R.Bhoir for the respondent B.M.C.

CORAM: N.M. JAMDAR, J.

DATED : 5 APRIL 2016

PC.:

Taken on production board in view of the *praecipe* filed by the Appellant/Applicant.

2 By this appeal, the Appellant challenges the order passed by the City Civil Court dated 27 October 2015, refusing ad-interim relief sought against the Respondent Corporation from acting on notice issued under Section 351 of the Mumbai Municipal Corporation Act, for demolition of the structure.

3 Learned counsel for the Appellant submits that, while the appeal was pending, the suit structure was demolished by the Municipal Corporation. The notice of motion is taken out only to restrain the Respondent Corporation from demolishing the structure. If the appellant seeks to now pray for a relief that the Appellant be permitted to reconstruct the suit structure, it is open to the Appellant to take out appropriate notice of motion in the City Civil Court which will be considered on its own merits and as per law.

4 In view of this position, the appeal from order as well as the civil applications need not be considered further on merits.

5 All rights and contentions of the parties as regard the notice of motion the Appellant may take out, are kept open. It is also open to the Appellant to request the City Civil Court to take up the notice of motion early.

5 The appeal and the civil applications stand disposed of.

(N. M. JAMDAR, J.)