

Sequeira

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

**APPEAL FROM ORDER (St.) NO. 6848 OF 2016
Along with
CIVIL APPLICATION (St.) NO. 6851 OF 2016**

Mrs.Sharada Yadav

.. Appellant / Applicant

Versus.

The Maharashtra Housing Area
Development Authority & ors.

.. Respondents

Mr.Chirag Shah i/b Mr.J.J.Shah, for the Appellant / Applicant.
Mr.A.V.Diwate, for Respondent Nos.2 & 3-BMC.

**CORAM: N.M. JAMDAR, J.
Wednesday, 23 March 2016.**

PC. :

By this Appeal the Appellant challenges the order passed by the City Civil Court, at Dindoshi Goregaon. Mumbai dated 12 February 2016 refusing ad-interim relief in draft Notice of Motion tendered by the Appellant.

2. The Appellant filed a Suit bearing L.C. No.376 of 2016 for restraining the Respondent-Corporation from demolishing or pulling down the suit premises, pursuant to Notice dated 28 January 2016 issued under Section 51(1) of Maharashtra Regional Town Planning Act, 1966.

3. The notice is in respect of the shed erected by the Appellant in front of the Shop No.22 which is allotted to the Appellant by MHADA-Maharashtra Housing and Area Development Authority. The MHADA in its communication dated 19 November 2015 informed the Appellant that the Appellant was allotted a shop bearing 29.45 sq.mts. and the Appellant has carried out construction exceeding the said allotment and it should be removed. The Appellant filed a suit challenging this notice. The learned counsel for the Appellant states that a restraint order has been passed against MHADA. The present suit concerns the notice issued by the Municipal Corporation, which is the Planning Authority. The Appellant has constructed a shed exceeding the shop that is allotted to her. Nothing is shown as to whether the shed is with permission except arguing that the shed is in existence for a long time and that MHADA is not averse to its existence. These arguments cannot be accepted. The Appellant has constructed the shed in blatant breach of the Planning laws, without taking permission of the Planning Authority. The learned City Civil Court has rightly refused to extend any equitable relief to the Appellant.

4. The Appeal cannot be entertained and is dismissed.

(*N.M. JAMDAR, J.*)