

Sequeira

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

**APPEAL FROM ORDER NO. 308 OF 2016
Along with
CIVIL APPLICATION NO. 389 OF 2016**

S.Muthubandi s/o Shellathurai. .. Appellant
Versus.
M/s Shree Falvruddhi Developer & ors. .. Respondents

Ms.Anisha Narayanan a/w Mr.V.Narayanan, for the Appellant /
Applicant.
Ms.Mamta Shah, for Respondent No.1.
Mr.Saket Mone a/w Vishesh Kalra and Subit Chakrabarti i/b Vidhi
Partners, for Respondent No.2.
Mr.Vishwajeet Sawant, for Respondent No.3-MHADA.
Mr.A.V.Diwate, for Respondent No.4-BMC.

**CORAM: N.M. JAMDAR, J.
Monday, 11 April 2016.**

PC. :

The Appellant challenges the order dated 4 March 2016 passed by the City Civil Court refusing to grant ad-interim relief in favour of the Appellant.

2. Heard learned counsel for the parties.

3. In the impugned order, the learned City Civil Court Judge has referred to a letter dated 27 May 2014 by Executive Engineer, M.B.R.R. Board to the Advocate for the Appellant that the CI shed

is non-cess and non tallying structure and that Maharashtra Housing And Area Development Authority (MHADA) has not conducted any survey of the structure. It is also referred that the Executive Engineer, F/North Division M.B.R.R Board, Mumbai has advised the Appellant to approach the office of Executive Engineer/Building Proposal/E-Ward, Sankli Street, Byculla, Mumbai since M.C.G.M. Is the Competent Authority to verify the existence of non-cess and non tallying structure.

4. It is also opined by the learned City Civil Court Judge that unless non-cess structure of the Appellant is certified by Competent Authority, the Appellant will not be able to claim permanent alternate accommodation in lieu of suit premises. The learned counsel for the Respondent No.1-Developer states that Intimation of Disapproval (IOD) has been granted in favour of Respondent No.1 and Respondent No.1 will be applying for Commencement certificate. Thus, it appears that there is no immediate need to demolish the suit structure. The Appellant will accordingly make an application to the Competent Authority referred to in the impugned order within period of one week from today and upon receipt of the Application, the Competent Authority will decide the same within four weeks thereafter. After the order is so passed liberty to the parties to apply to the City Civil Court for appropriate orders. Since from the contentions of the parties it appears that no immediate demolition either of the building or suit structure is going to take place, it is not necessary to pass a further protective order. It is informed that there are some other proceedings instituted against the Appellant under different provisions of law.

The same shall be undertaken as per law. The Appeal from Order accordingly is disposed of in above terms.

5. The Application so made by the Appellant will be decided by the Competent Authority as per the procedure laid down and as per law.

6. Accordingly, the Civil Application also stands disposed.

(N.M. JAMDAR, J.)