

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
APPEAL FROM ORDER ST. NO. 19095 OF 2016  
WITH  
CIVIL APPLICATION ST.NO.19096 OF 2016**

|                                                |                     |
|------------------------------------------------|---------------------|
| <b>Mohammed Kallu Ibrahim Shah</b>             | <b>..Appellant</b>  |
| <b>Vs.</b>                                     |                     |
| <b>Municipal Corporation of Greater Mumbai</b> | <b>..Respondent</b> |

**Mr. C. K. Tripathi for the Appellant / Applicant**  
**Mrs. M. R. Bhoir for the Respondent**

**CORAM : R. M. SAVANT, J.**  
**DATE : 26<sup>th</sup> JULY, 2016**

**P.C.**

1           The order dated 28-6-2016 passed by the Learned Judge of the City Civil Court, Greater Mumbai dismissing the Notice of Motion No.529 of 2009 filed by the Appellant / original Plaintiff is taken exception to by way of the above Appeal From Order.

2           The case of the Plaintiff that he is in exclusive use, occupation and possession of the land admeasuring 3200 sq.mtrs bearing CTS No.1 (part) survey No.65, Vikhroli Village, Eastern Express Highway, Pant Nagar, Ghatkopar (E) Mumbai 400 075, wherein he has an existing structure admeasuring 35 x 80 sq.ft. in which he was running the business of auto works in the suit property under the name and style of M. K.Shah auto works. It is

the case of the Plaintiff that having regard to the nature of the business no licence is required to be obtained by him from the MCGM. The MCGM issued a notice on 31-1-2013 to the Plaintiff which notice was issued under Section 314 (4) of the Mumbai Municipal Corporation Act (for short MMC Act) alleging that the Plaintiff was carrying on business without any valid licence. This resulted in the Plaintiff filing the Suit in question and the instant Notice of Motion. In the Notice of Motion the relief sought is an injunction restraining the Defendant from acting upon the impugned notice dated 31-1-2013.

3           The Trial Court has rejected the said Notice of Motion on the same grounds as the Notice of Motion being No.529 of 2013 filed in another Suit being L.C. Suit No.544 of 2013 which was also filed by the Plaintiff i.e. the Appellant in the instant Appeal. The said grounds are inter alia to the effect that the Plaintiff has suppressed certain facts as also in view of the findings recorded by a Learned Single Judge of this Court that the Plaintiff has no vestige of right in the suit property being land Survey No.65. In addition thereto, the instant Notice of Motion has been dismissed also on the ground that the Plaintiff is carrying out business activities in the suit structure without obtaining any licence from the MCGM. The Trial Court therefore observed that having regard to the said facts the Plaintiff is not entitled to the equitable relief of injunction and has accordingly dismissed the Notice of Motion.

4           In my view, having regard to the reasons mentioned by the Trial Court in the impugned order, no case for interference is made out. The Appeal From Order is accordingly dismissed.

5           In view of the dismissal of the above Appeal From Order, the Civil Application St.No.19096 of 2016 does not survive and to accordingly stand disposed of as such.

**[R.M.SAVANT, J]**