

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST) NO.26184 OF 2016
WITH
CIVIL APPLICATION (ST) NO.26187 OF 2016

Liqvd Digital India Pvt. Ltd Appellant.

V/s.

Municipal Corporation of Greater Mumbai
and ors Respondents

Mr. A. N. Narula, a/w Ms. Meena Bhatia, I/by Jhangiani Narula & Associates, for the Applicant.

Mrs. Madhuri More, for the Respondent Corporation.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 28TH SEPTEMBER, 2016.

P.C. :

1. This appeal is preferred challenging the order dated 19.09.2016, passed by the City Civil Court, Mumbai, in Draft Notice of Motion in S.C.Suit No.2178 of 2016.

2. By the said Notice of Motion, appellant is challenging the notice issued by the respondent corporation under Section 351 of the Mumbai Municipal Corporation Act; whereby appellant was called upon to demolish the structure mentioned in the Notice namely Ground floor and one mezzanine floor on the ground floor of the Queens Mansion, as the necessary permission for making alteration or constructing the said

structure was not obtained.

3. The trial Court, vide its order has refused to grant ad-interim relief on the count that no such application for regularization of the structure was moved till then. In view thereof and in the light of same, learned counsel for appellant submits that the appellant is ready and willing to move such application for regularization of the structure within two weeks from the date of order.

4. Accordingly, in view of the order passed by this Court, in Writ Petition No.640 of 1998 on 19th November, 2008, it is hereby directed that if the structure is capable of being regularized, it will be open to the competent authority to consider the request of the appellant and pass appropriate direction as may be warranted in the fact situation of the case of the present case keeping open all questions in that behalf open. The appeal is accordingly disposed off with following directions :-

Order

- i) The appellant, if so desires may submit formal application through qualified Architect for regularization of the structure in question addressed to the Executive Engineer, Building Proposal "A" ward, within two weeks from today, failing which it will be open to the Municipal Corporation to take appropriate action as may be necessary in relation to the disputed structure, on the basis of impugned notice issued under Section 351 of the Mumbai Municipal Corporation Act;
- ii) In the event appellant submits regularization application

within specified time, the said application will be decided by the Municipal Corporation within two months from its presentation. Till the application is finally disposed of, Corporation shall not take any precipitative action with regard to the disputed structure. In the event, the decision on the regularization application is adverse to the appellant, same would not be acted upon, by the corporation for a period of two weeks from its service on the appellant.

lii) In view of disposal of Appeal, Civil Application is disposed of finally.

[DR. SHALINI PHANSALKAR-JOSHI, J.]