

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

APPEAL FROM ORDER (L) NO.31044 OF 2016
WITH
CIVIL APPLICATION (L) NO.31046 OF 2016
IN
APPEAL FROM ORDER (L) NO.31044 OF 2016

Mrs. Taran Kaur Sehgal

...Appellant

Versus

Municipal Corporation of Greater
Mumbai

...Respondent

Mr. Bipin J. Joshi for the Appellant.

Ms. Madhuri More for BMC.

CORAM : G.S. KULKARNI, J.

DATE : 16 NOVEMBER 2016.

P.C. :

. Heard learned counsel for the appellant and learned counsel for the Municipal Corporation.

2. The challenge in this appeal is to the order dated 11/11/2016 passed by learned Judge, City Civil Court Mumbai whereby learned Judge has rejected the prayer for ad-interim relief as sought by the appellant/plaintiff. The Municipal Corporation issued impugned notice dated 18/10/2016 under section 55 of the Maharashtra Regional & Town Planning Act, 1966 alleging that the appellant has unauthorizedly carried out the development of temporary nature, of a brick masonry wall and GI sheets. The impugned notice indicates that the unauthorized work was carried out at CTS No.393, Survey No.45, Hissa No.11, 45/11/2-11 Guntha, Near Good Relations CHS, Govandi (E), Mumbai.

3. Learned counsel for the appellant submitted that the unauthorized construction as alleged by the Municipal Corporation is in existence for 5-10 years. He has drawn my attention to the documents which are part of the record before the Trial Court. The documents are in the nature of Bombay Shops and Establishment Act 1948, electricity Bills issued by Reliance Energy. However, none of these documents show that it pertains to CTS No.393 as referred to in the impugned notice. There is nothing on record to show that permission was granted by the Municipal Corporation to make the construction as alleged in the impugned notice issued by the Corporation. No other document showing ownership in respect of the property are shown.

4. Considering the averments in the plaint prima facie it is a case where a temporary injunction is prayed for by showing irrelevant documents. At this stage, learned counsel for the appellant seeks leave to amend the appeal memo and produce relevant documents. The said request cannot be accepted. In the first place necessary documents were required to be shown before the Trial Court. Nothing precluded the appellant from producing the documents and making necessary averments before the Trial Court.

5. In the circumstances, I do not find that there is any merit in the contention raised on behalf of the appellant. If the appellant has any further documents to support his case then it is appropriate that the appellant approaches the Trial Court by a necessary application as also seek urgent relief on the basis of such fresh material.

6. In view of the above observations, no interference is called for, Appeal from Order is accordingly dismissed.

7. Civil Application No.31046/2016 does not survive in view of disposal of Appeal from Order and the same is accordingly disposed of.

8. It is clarified that this Court has not granted any protection. However, needless to mention that the learned Trial Judge shall hear the notice of motion or any other urgent application made on behalf of the appellant on its own merit.

(G.S.KULKARNI, J.)