

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
CIVIL APPELLATE JURISDICTION.**

**APPEAL FROM ORDER (ST) NO. 35826 OF 2016
WITH
CIVIL APPLICATION (ST) NO. 35827 OF 2016**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. Suresh Dubey for the Appellant.

Ms. Oorja Dhond for the Respondent/BMC.

**CORAM : K. K. TATED, J.
(VACATION COURT)**

DATED : 30/12/2016

PC.:

. Heard learned Counsel for the parties.

2 By this Appeal from Order, Appellant plaintiff is challenging the order dated 23.12.2016 by which the Trial Court declined to grant ad-interim relief.

3 It is to be noted that plaintiff filed L.C. Suit No. 2881 of 2016 restraining the Respondent from demolishing the suit structure without following due process of law. The Appellant in para 17 on page 17 in Appeal from Order stated as follows:

“17. A local politician having been approached by the society is reportedly pressurizing the Officers of the Defendant Corporation to indulge in illegal action of demolition against the shutters, which information came to the knowledge of the Plaintiff when he went to the office of the M.C.G. M. on 3rd December, 2016 in the evening, when he was 'advised' that he should settle the matter with the politician, failing which

B.M.C. will take action on the basis of the impugned notice and no further notice would be served upon the plaintiff, and they would be able to justify the action, by alleging that works were continuously going on, despite the said notice, due to which the Defendants had no option!!!”

4 Bare reading of the paragraph 17 shows that Appellant has not disclosed the name of the local politicians who have pressurized the corporation to take action. Not only that, the appellant has not disclosed the name of Officers of Corporation who threatened him for taking action. For want of prima facie case, I do not find any reason to entertain the present proceeding. Apart from that the Notice of Motion preferred by the Plaintiff is pending for hearing and final disposal of on its own merits.

5 Considering this fact, following order is passed.

a) Appeal from order as well as Civil Application stand rejected.

b) Respondent Corporation is directed to file affidavit in reply before the Trial Court in Notice of Motion preferred by the Plaintiff on or before 13.01.2017 with copy to other side.

c) Hearing of Notice of Motion is expedited.

(K.K.TATED, J.)