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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 225 OF 2017
WITH
CIVIL APPLICATION NO. 310 OF 2017

Abis Construction, Prop Mr Abis Akhtar Rizvi ...Appellant
Versus
 Omprakash Rambahal Yadav & Anr ...Respondents

Mr Akash Rebello, i/b Ravi Thankaian, for the Appellant.
Mrs Madhuri More, for Respondent No. 2-MCGM.

CORAM: G.S. PATEL, J
DATED: 3rd July 2017

PC:-

1. **Civil Application No. 310 of 2017:**

1. There appears to have been some miscommunication between the Appellant and his Advocate and this resulted in a delay of 424 days. The delay is sufficient explained. It is condoned.

2. The Civil Application is made absolute and disposed of accordingly.

Appeal from Order No. 225 of 2017:

3. The Appeal is directed against an order dated 27th October 2015. The Plaintiff sought protection against demolition. The Municipal Corporation of Greater Mumbai has issued a notice under Section 351 dated 26th March 2013 with an accompanying order dated 31st May 2013. The 2nd Defendant is the owner of the land. The Plaintiff apparently had a shed or hut on part of the Plaintiff's plot.

4. The learned Judge after hearing parties granted protection against demolition and essentially ordered that the *status quo* be maintained. The 2nd Defendant contends that this order is unviable and ought to be set aside.

5. I disagree. The *status quo* required to be preserved pending the Suit. No other order was possible. To set it aside is to effectively put the Plaintiff out of court. The order cannot be faulted either in its conclusion or in its findings.

6. The Appeal from Order is dismissed. No costs.

7. The Suit will be decided on its own merits uninfluenced by the observations in the impugned order or in this order.

(G. S. PATEL, J)