

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 342 OF 2015
WITH
CIVIL APPLICATION NO. 437 OF 2015

Mohd Asif Mohd Yunus Galiyara	...Appellant
<i>Versus</i>	
Assistant Municipal Commissioner	...Respondent

Mr VA Thorat, Senior Advocate, i/b Ashok Pandey, for the
Appellant.
Mrs Madhuri More, for the Respondent-MCGM.

CORAM: G.S. PATEL, J
DATED: 17th July 2017

PC:-

1. The Appeal is directed against an order of 16th February 2015 declining the Plaintiff ad-interim relief.

2. The Plaintiff sought an injunction against the MCGM from acting pursuant to its notice under Section 354-A of the MMC Act. The structure in question is clearly described as a five floor structure, that is to say a structure that is a ground floor, mezzanine, first floor, mezzanine, second floor and the attic or loft (and then, presumably, a roof).

3. In this Appeal, the MCGM has not, despite seeking time, responded to the documents adduced by the Appellants purporting to show that the structure is authorized.

4. There is an order dated 13th March 2015 that directs the maintenance of *status quo* and this has continued till date with no attempt to seek a modification or recall of it.

5. I am informed by Mr Thorat that the Suit itself is at the stage of evidence. There is certainly no reason for interference at this stage with an order declining interim relief.

6. The Appeal is dismissed. No costs.

7. The order of *status quo* is continued pending the final disposal of the Suit, and should be decided against the Plaintiffs, for a period of four weeks thereafter. The Suit will be decided on its own merits uninfluenced by the observations in this order.

8. The Civil Application does not survive and is disposed of as infructuous.

(G. S. PATEL, J)