

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER (STAMP) NO.8160 OF 2017
WITH
CIVIL APPLICATION (STAMP) NO.8161 OF 2017
IN
APPEAL FROM ORDER (STAMP) NO.8160 OF 2017**

M.N. Rao ...Appellant/Applicant

V/s.

Municipal Corporation of Greater Mumbai And Ors. ..Respondents

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Mr. A.M. Saraogi, a/w. Mr. Anand Mishra, for the Appellant.

Ms. Madhuri More, for MCGM.

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CORAM : S.C. GUPTE, J.

DATED : 5 MAY 2017

P.C. :

. This Appeal from Order challenges an order refusing to grant ad-interim relief to the Appellant in his suit filed before the City Civil Court at Dindoshi, Mumbai. The suit challenges a notice issued to the Plaintiff under Section 351 of the Mumbai Municipal Corporation Act. It is the case of the Plaintiff that loft, in respect of which this notice is issued, has been in existence and the Plaintiff's use since a long time and under an existing policy of the State, the Municipal Corporation can very well consider whether or not to regularize the construction. It is submitted that the construction is within the norms of the present development regulations. It is also submitted that an application to that end is made to the Factory and Building Department of the Municipal

Corporation, but the Municipal Corporation has not taken any decision on this application. Learned Counsel for the Municipal Corporation states that this application has been wrongly made to the Factory and Building Ward of the Corporation. She, however, submits that if this application is made to the Executive Engineer, Western Suburbs, the same will be duly considered within six weeks of such application and that final decision in this behalf will be conveyed to the Appellant. Learned Counsel also submits that nearly 80% of the premises has already been demolished and that, till the Municipal Corporation considers the application for regularization, status-quo needs to be maintained at site even by the Appellant. Learned Counsel for the Appellant disputes the percentage of demolition. It is, however, not in dispute that a major portion of the suit loft has been demolished. He also undertakes, on instructions of his client, who is present in the Court, that his client shall maintain status-quo of the suit locked as of today.

2. In view of these submissions and statements, the Appeal from Order can conveniently be disposed of by directing the Respondent Municipal Corporation to consider the Appellant's application for regularization within six weeks of making of the same. The Appellant shall make the appropriate application within a period of three weeks from today. The Appellant to ensure that the proposal is complete in all respects. The Appellant will not be heard to seek any further time for submitting the regularization proposal. After submitting the regularization proposal and supporting documents, if any, the Municipal Corporation shall consider the proposal within a period of six weeks and communicate its decision to the Appellant. No further coercive steps

shall be taken till a decision is taken on the proposal and for a period of ten days after the communication of the decision, in case the order is against the Appellant. The Appeal from Order is disposed of in these terms.

3. In view of the disposal of the Appeal from Order, the Civil Application does not survive and the same is disposed of.

(S.C. GUPTE, J.)