

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 430 OF 2017
WITH
CIVIL APPLICATION NO. 550 OF 2017

Suresh Alias Suryakant K Salot ...Appellant
Versus
Municipal Corporation of Greater Mumbai & Anr ...Respondents

Mr , *for the Appellant.*
Mr , *for the Respondents.*

CORAM: G.S. PATEL, J
DATED: 10th July 2017

PC:-

1. On 16th June 2017, the Trial Court declined to grant ad-interim relief finding that a reply was necessary. It specifically found that there was a discrepancy or incongruity between the description of the property in the Suit and in the notice. In other words, the property that the Plaintiff sought to protect did not show that it was a ground plus two floor structure, or that when the Plaintiff purchased the shop in question it was a ground plus two floor structure.

2. The Trial Court only held that the Municipal Corporation will be required to be heard since it had issued the notice, and the notice itself mentions that the Plaintiff was constructing a first and second floor over the existing structure. Clearly, therefore, there was no dispute about the ground floor portion. The objection was to the first and second floor portion. It was for the Plaintiff to show that the first and second floor portion was authorized. This could not have been shown from the material then before the Court.

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

4. The Notice of Motion will be heard on its own merits uninfluenced by the ad-interim order.

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

(G. S. PATEL, J)