

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER st. NO.17945 OF 2017
with
CAAST./17946/2017

Sanjay s/o. Raghunath Singh ... Appellant

Vs.

The State of Maharashtra ... Respondent

Mr.Anand Mishra i/b K.A. Gandhi for the Appellant
Mr.Yogesh Dabke, AGP, for Respondent – State

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **DECEMBER 11, 2017**

P.C.:

1. This Appeal from Order is directed against the order dated 8.6.2017 passed by the learned Judge of the City Civil Court, Dindoshi, refusing to grant ad-interim relief in Notice of Motion No.1735 of 2017 in Suit No.1588 of 2017. The defendant is the State of Maharashtra, which has issued the notice dated 11.5.2017 of demolition of the structures which are standing on the land owned by the defendant. The plaintiff/appellant has challenged this notice by filing suit on the ground that his structure admeasuring 20 sq.ft. is a B.M. wall and he submits that it is to be protected.

2. Learned Counsel for the appellant submits that the appellant is in use and possession of the premises since 1995 and he is protected as per the policy of the Government. He submits that the notice given by the defendant of demolition of the structures on the entire locality is bad in law. He further submits that his structure stands on the CTS No.2620 i.e. the land for which the notice is issued by the Government. He relies on a document dated 18.3.2017 issued by advocate A.M. Saraogi that this appellant is his driver working for him and he has purchased this structure standing on Survey No.224, Hissa No.11, CTS No.2620, near Ali Talao Road, Malad (west), Mumbai from one Ramprasad Verma in the year 1994.

3. The learned AGP for the State while supporting the order rejecting the ad-interim relief passed by the learned Judge, City Civil Court, produced a document to point out that as per the case of the plaintiff, the property belonged to one Harris Mendis and not to any Mehta.

4. Perused the documents produced herewith. Considering the document produced herewith, I am of the view that as the plaintiff/appellant has not produced a single document showing any right over the suit property, no protection can be granted. Prima

facie, it appears that there is no evidence to show that the structure is to be protected. Further, a letter written by an advocate stating about the transaction between the parties is not a proof and cannot be looked into at all.

5. Appeal from Order is dismissed. Civil Application is also dismissed.

(MRIDULA BHATKAR, J.)