

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER (ST).NO.20893 OF 2017
WITH
CIVIL APPLICATION (ST.) NO.20894 OF 2017
IN
APPEAL FROM ORDER (ST).NO.20893 OF 2017**

Mr. Navinchandra Alias Navinbhai
Karamsi Chawda

....Appellant

Vs.

The Municipal Corporation of
Greater Mumbai

....Respondent

Mr. Vishal Kanade i/b.Mr. Jitendra J. Shah for the Appellant.
Mr. Vinod Mahadik for the Respondent/BMC.

**CORAM: MRS. MRIDULA BHATKAR, J.
DATED: AUGUST 11, 2017**

P.C. :

1. In this Appeal from Order, the order passed by the learned Judge of the City Civil Court, dated 19.07.2017, thereby refusing ad-interim injunction is challenged. The plaintiff - present appellant has filed L.C.Suit No.2059 of 2017 challenging the notice issued under Section 351 of the Mumbai Municipal Corporation Act, 1888 with respect to his structure. Now the notice dated 09.06.2017 is challenged, and the plaintiff by way of draft Notice of Motion had sought interim protection against demolition of the

suit structure. As the said interim relief was rejected, this appeal against order is filed.

2. Learned counsel for the appellant submits that the suit structure falls under a slum area i.e. City Survey No.255 and hence, it needs to be protected. He submitted that the Corporation has not filed any reply denying the averments made in the Notice of Motion that the structure does not stand on slum or Survey No.255 and that the ad-interim relief was rejected. The learned counsel has submitted that the learned trial Court has committed error in not considering the fact that City Survey No.255 is declared as a slum in the Government Gazette on 28.12.1995.

3. The learned counsel for the respondent opposes this appeal and submits that there is no documentary proof to show that the suit structure stands on City Survey No.255, which is declared as a slum.

4. Perused the impugned order and considered the submissions made. No illegality is found in the order passed by the learned Judge. Hence, the appeal from order is summarily

dismissed.

5. The Corporation to file its say in the Notice of Motion within two weeks and thereafter the motion to be preferably heard within a week.

(MRIDULA BHATKAR, J.)