

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
APPEAL FROM ORDER NO. 1069 OF 2014

WITH

CIVIL APPLICATION NO. 1291 OF 2014

Himalaya Parvatiya Sangh .. Appellant

vs.

The Municipal Corporation of Greater  
Mumbai .. Respondent

Mr. Rajendra D.S. Bhandari for the Appellant.

Ms M.M. More for the Respondent-MCGM.

**CORAM : M. S. SONAK, J.**

**DATE : 8 FEBRUARY 2017.**

**P.C. :-**

1] Heard learned counsel for the parties.

2] With the consent of and at the request of learned counsel for the parties, this appeal is disposed of finally, at the stage of admission itself.

2] The challenge in this appeal is to the order dated 19 September 2014, by which, learned trial Judge has declined the interim reliefs restraining the Municipal Corporation for Greater Mumbai (MCGM) from enforcing its notice under section 354-A of the Mumbai Municipal Corporation Act, 1888 (said Act).

3] Learned counsel for the appellant contends that the construction is un-authorised and the permission was obtained for the same. In any case, he submits that without prejudice the application for regularization has been made and even the same is pending consideration

4] On 28 April 2015, this court granted ad-interim relief to the appellant thereby restraining the MCGM from enforcing its notice. Such order is in operation till today. The suit is at an advanced stage and according to learned counsel for the appellant, PW-2 is under cross-examination.

5] In the aforesaid circumstances, the ad-interim relief granted earlier, is directed to operate during pendency of the suit. Further, learned trial Judge is requested to expeditiously dispose of the suit itself. The appellant is also directed to maintain *status quo* in respect of the suit structure.

6] With aforesaid observations, this appeal is disposed of. There shall be no order as to costs.

7] The appeal and civil application appeal are disposed of in the aforesaid terms.

8] All concerned to act on the basis of authenticated copy of this order.

**(M. S. SONAK, J.)**