

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER (ST.) NO. 28759 OF 2016
WITH
CIVIL APPLICATION (ST.) NO. 28761 OF 2016
WITH
CIVIL APPLICATION (ST.) NO. 33963 OF 2016
IN
APPEAL FROM ORDER (ST.) NO. 28759 OF 2016**

Laila Abdul Razak Shaikh @
K. Laila Nadar .

...Appellant

Versus

The Municipal Corporation of Greater Mumbai

...Respondent

.....

Mr.Gajanan S. Shete i/b. Aarkey Legal for the Appellant.
Mrs. Madhuri More for the Respondent/ Municipal Corporation.

.....

**CORAM: MRS.MRIDULA BHATKAR, J.
DATED: OCTOBER 13, 2017**

P.C. :

1. This Appeal from Order is directed against the order dated 01.07.2016 passed by the learned Judge, City Civil Court, Borivali Div., Dindoshi, Mumbai, in Notice of Motion No. 437 of 2016 in L.C.Suit No. 256 of 2015 thereby dismissing Notice of Motion No.437 of 2016.

2. The appellant was having a garage on footpath. She had filed a Notice of Motion for seeking relief to direct the defendant/ Municipal

Corporation to restore the suit structure to its original structure or in the alternative to permit the plaintiff/appellant to restore the said structure. The ad-interim relief was rejected by the trial Court on 29.05.2015 and the defendant/Municipal Corporation was given time to file reply. It is the case of the appellant that instead of filing reply, the defendant/Municipal Corporation demolished the suit structure on 13.01.2016 when present suit is pending.

3. Learned counsel for the appellant has submitted that the appellant is having a garage since 1986 and she has submitted the relevant papers alongwith the Suit, however, the learned Judge has not considered those papers and refused the ad-interim injunction. He has further submitted that the appellant/plaintiff is still acquiring the suit premises and her right on the said premises is to be protected.

4. Perused the impugned order. There is no merit in the case as ad-interim injunction was refused on 29.05.2015. Pursuant to the said refusal, the Municipal Corporation has taken correct steps of demolishing the suit premises. The appellant has not challenged the rejection of ad-interim injunction before the High Court.

5. Under such circumstances, there is no merit in this Appeal from Order. Appeal from Order is disposed of accordingly.

6. In view of the disposal of the Appeal, nothing survives in the Civil Applications and the same are disposed of as such.

(MRIDULA BHATKAR, J.)