

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER ST. NO.31296 OF 2017
WITH
CAAST./31299/2017**

Shri Ramesh Ganpat Salvi

... Appellant

Vs.

Municipal Corporation of Greater Mumbai ... Respondent

Mr.Brijesh Shukla i/b H.K. Mourya for the Appellant

Mrs.Madhuri More for Respondent – Corporation

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

DATE: **NOVEMBER 13, 2017**

P.C.:

1. Upon urgent mentioning, taken on Production Board.
2. This appeal is preferred against the order of refusal of ad-interim injunction passed by the learned Judge of the City Civil Court on 6.11.2017, by which the notice dated 13.9.2017 issued by the Corporation u/s 351 of the Mumbai Municipal Corporation Act, is challenged.

3. The learned Counsel for the appellant has submitted that no reasoned order is passed by the learned trial Judge but it is a cryptic order in the Roznama. He has further submitted that the structure under challenge is a residential structure. However, the Designated Officer i.e., Assistant Engineer (B & F), P(South) ward, has rejected the explanation given by the appellant/plaintiff on the ground that it is a covered structure. He submits that now the Notice of Motion is fixed on 21.2.2018.

4. The learned Counsel for the Corporation while opposing this Appeal from Order, has submitted that the Designated Officer of P(South) Ward, passed a speaking order on 16.10.2017 and has rejected the case of the plaintiff that it is an unauthorised structure.

5. After considering the submissions and the documents and the order passed by the Designated Officer, as it is a refusal of the ad-interim relief and the Notice of Motion is still pending, the Corporation is directed not to take coercive action till the Notice of Motion is decided finally. The Corporation to file affidavit in reply to the Motion on or before 31.12.2017 and the trial Court shall dispose of the said Notice of Motion on or before 21.2.2018.

6. Appeal from Order is accordingly disposed of. In view of the disposal of the Appeal from Order, Civil Application also stands disposed of.

(MRIDULA BHATKAR, J.)