

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

**APPEAL FROM ORDER (ST.) NO. 33583 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 33585 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 33583 OF 2017**

Mr.Ramesh Bharat Yadav ...Appellant

Versus

The Municipal Corporation of Greater Mumbai ...Respondent

.....
Mr. B.A.Lawate for the Appellant.
Mrs.Madhuri More for the Respondent/ Municipal Corporation.
.....

CORAM: MRS.MRIDULA BHATKAR, J.

DATE : DECEMBER 08, 2017

P.C.:

1. Perused the order dated 23rd November, 2017 passed by the learned Ad-hoc Judge, City Civil Court, Borivali Div., Dindoshi, Mumbai in Draft Notice of Motion in S.C.Suit No. 3352 of 2017 thereby refusing the ad-interim relief.

2. The appellant/plaintiff has filed S.C. Suit No. 3352 of 2017 for injunction thereby challenging the notice dated 4th July, 2017 issued

under Section 351 of the Mumbai Municipal Corporation Act and also the order dated 13th November, 2017 passed by the Designated Officer Assistant Engineer (B & F), P North Ward. It appears from the record that the structure shown as unauthorized in the notice is not clear and the assessment bill dated 23rd April 2016 of the year 2016-2017, which is produced before this Court disclosing that the first assessment date as 31st March, 1961 is not taken into account by the Designated Officer while passing the order on 13th November, 2017.

3. Learned counsel for the appellant has submitted that the said document disclosing the first assessment date prior to 1964 was produced before the Designated Officer, however, he ignored the same.

4. On query, the learned counsel for the Municipal Corporation could not point out the discrepancy in respect of this assessment bill in the said order. Hence, this particular document is required to be referred to the Designated Officer.

5. In view of this, the ad-interim relief granted earlier in respect of the suit structure is extended till 18th February, 2018, as the hearing

of the Notice of Motion is fixed on 18th February, 2018 before the trial Court. In the meanwhile, the appellant/plaintiff to approach the Designated Officer on or before 20th December, 2017 and produce this document before him and the Designated Officer to pass the order in continuation of his earlier order dated 13th November, 2017 on or before 15th January, 2018. The Municipal Corporation to file reply to Notice of Motion on or before 20th January, 2018. The trial Court may hear the Notice of Motion and dispose of on 18th February, 2018.

6. The appellant to remove office objections.

7. With this, Appeal from Order is disposed of. Civil Application is also accordingly disposed of.

(MRIDULA BHATKAR, J.)