

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

**APPEAL FROM ORDER (ST.) NO. 35439 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 35440 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 35439 OF 2017**

Noorul Hasan Chaudhary

...Appellant

Versus

Municipal Corporation of Greater
Bombay & Ors.

...Respondents

**WITH
APPEAL FROM ORDER (ST.) NO. 35444 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 35446 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 35444 OF 2017**

Akhtar Husein A Gani

...Appellant

Versus

Municipal Corporation of Greater
Bombay & Ors.

...Respondents

**WITH
APPEAL FROM ORDER (ST.) NO. 35448 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 35449 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 35448 OF 2017**

Haroon Nasir Hussain

...Appellant

Versus

Municipal Corporation of Greater
Bombay & Ors.

...Respondents

**WITH
APPEAL FROM ORDER (ST.) NO. 35455 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 35456 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 35455 OF 2017**

Shafee Shabir Khan

...Appellant

Versus

Municipal Corporation of Greater
Bombay & Ors.

...Respondents

**WITH
APPEAL FROM ORDER (ST.) NO. 35458 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 35461 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 35458 OF 2017**

Amjad A.Rehman Khan

...Appellant

Versus

Municipal Corporation of Greater
Bombay & Ors.

...Respondents

**WITH
APPEAL FROM ORDER (ST.) NO. 35462 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 35463 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 35462 OF 2017**

Sayed Salim ...Appellant

Versus

Municipal Corporation of Greater
Bombay & Ors. ...Respondents

**WITH
APPEAL FROM ORDER (ST.) NO. 35465 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 35466 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 35465 OF 2017**

Ibrahim B. Bilgi ...Appellant

Versus

Municipal Corporation of Greater
Bombay & Ors. ...Respondents

**WITH
APPEAL FROM ORDER (ST.) NO. 35468 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 35469 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 35468 OF 2017**

Rais Shaikh ...Appellant

Versus

Municipal Corporation of Greater
Bombay & Ors. ...Respondents

**WITH
APPEAL FROM ORDER (ST.) NO. 35470 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 35471 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 35470 OF 2017**

Fahmida Akhtar Hussain

...Appellant

Versus

Municipal Corporation of Greater
Bombay & Ors.

...Respondents

**WITH
APPEAL FROM ORDER (ST.) NO. 35473 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 35474 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 35473 OF 2017**

Atharullah Rahmatullah Shaikh

...Appellant

Versus

Municipal Corporation of Greater
Bombay & Ors.

...Respondents

**WITH
APPEAL FROM ORDER (ST.) NO. 35475 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 35476 OF 2017
IN
APPEAL FROM ORDER (ST.) NO.35475 OF 2017**

Ramchandra B. More

...Appellant

Versus

Municipal Corporation of Greater
Bombay & Ors.

...Respondents

**WITH
APPEAL FROM ORDER (ST.) NO. 35478 OF 2017
WITH
CIVIL APPLICATION (ST.) NO. 35480 OF 2017
IN
APPEAL FROM ORDER (ST.) NO. 35478 OF 2017**

Mohammad Hasanul Moiz

...Appellant

Versus

Municipal Corporation of Greater
Bombay & Ors.

...Respondents

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Mr.C.K.Tripathi for the Appellants in all AO's.
Mr.Kevic Setalwad, Senior Advocate a/w. Mrs. Madhuri More for the
Respondents/Municipal Corporation.

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**CORAM: MRS.MRIDULA BHATKAR, J.
DATE : DECEMBER 18, 2017**

P.C.:

1. Upon urgent mentioning, taken on Production Board.
2. These twelve Appeals are taken together, as these all Appeals are directed against the order dated 2nd December, 2017 passed by the learned Civil Judge, City Civil Court, Borivali Div., Dindoshi, Mumbai thereby refusing the ad-interim relief in Notice of Motion No. 3318 of 2017 in L.C.Suit No. 2657 of 2017, Notice of Motion No. 3319 of 2017 in L.C.Suit No. 2658 of 2017, Notice of Motion No. 3320 of 2017 in L.C.Suit No. 2659 of 2017, Notice of Motion No.

3321 of 2017 in L.C.Suit No. 2660 of 2017, Notice of Motion No. 3322 of 2017 in L.C.Suit No. 2661 of 2017, Notice of Motion No. 3323 of 2017 in L.C.Suit No. 2662 of 2017, Notice of Motion No. 3324 of 2017 in L.C.Suit No. 2663 of 2017, Notice of Motion No. 3325 of 2017 in L.C.Suit No. 2664 of 2017, Notice of Motion No. 3326 of 2017 in L.C.Suit No. 2665 of 2017, Draft Notice of Motion in L.C.Suit Nos. 3290 of 2017, 3291 of 2017 and 3292 of 2017. As the issues involved in all these Appeals are one and the same, all these Appeals are disposed of by a common order.

2. The defendants/Municipal Corporation had issued notices under Section 351 of the Mumbai Municipal Corporation Act, 1888 (hereinafter referred to as the “MMC Act”) in respect of unauthorized construction of the first floor and second floor. The notices were issued in respect of unauthorized vertical construction on the ground floor. On perusal of the complaints and the impugned order, it appears that unauthorized constructions are either on the first floor or second floor.

3. Learned counsel for the appellants has submitted that the suit structures are in existence prior to datum line and they are

authorized. He has further submitted that the Municipal Corporation had issued notices and they are acting as a puppet of the owner, who is interested in developing the suit premises.

4. Learned counsel for the Municipal Corporation has pointed out the order dated 12th September, 2017 passed by the Designated Officer of the Municipal Corporation wherein all documents produced by the respective appellants in respect of the suit structures were examined and the Designated Officer had arrived at a conclusion that no documents were produced showing the vertical structure on the first floor and second floor, as mentioned in the respective notices were in existence prior to datum line.

5. It was submitted by the learned counsel for the appellants that the owner may have any other hidden agenda, however, the Municipal Corporation is justified in issuing notices.

6. Heard submissions. Perused the impugned order. The notices were sent by the Municipal Corporation *prima facie* cannot be said illegal. Learned counsel appearing for the appellants could not produce any document to show that the suit structures,

which are claimed to be authorized, are in existence prior to datum line and it was not considered by the trial Court while refusing the ad-interim relief and, therefore, I do not find any reason to interfere with the order passed by the trial Court.

7. In view of the above, all Appeals are disposed of. Civil Applications are also accordingly disposed of.

(MRIDULA BHATKAR, J.)