

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

**APPEAL FROM ORDER (STAMP) NO.2210 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO.2211 OF 2018**

P. Mohammed Iqbal

..Appellant

vs.

Municipal Corporation of Greater Mumbai
and Anr.

...Respondents

Mr. Prasad Dhakephalkar, Senior Advocate a/w Mr. Anand H. Singh for the Appellant .

Mr. Narendra Walawalkar, Senior Advocate a/w. Mrs. Mamta Bhoir for the Respondents.

CORAM : V. M. DESHPANDE, J.

DATE : 16th JULY, 2018

P.C.:

. Heard learned counsel for the parties. The present appeal is directed against the order passed by learned Civil Judge, City Civil Court, Borivali Division, Dindoshi, Mumbai on 10/1/2018 in Notice of Motion No.2944/2017 in Suit No.2434/2017 rejecting the ad-interim relief.

2. There is an order passed by Medical officer of Health Department against the appellant. As per that order his health license No.761424980 was cancelled with immediate effect. That gave rise to the filing of the suit. In the suit, notice of motion is moved and pending that ad-interim was refused. Be that as it may in my view detail and elaborate order need not be passed in this appeal, in view of the statement made by Mr. Walawalkar, learned counsel for the respondents which is recorded by

this Court (Coram: Mrs. Mridula Bhatkar, J) in order dated 2/2/2018.

3. On 2/2/2018 statement was made for and on behalf of the Corporation as under:

“He has submitted that if the appellant applies for license afresh for the year 2018 and he himself demolish the extended portion of his structure beyond 31 sq. meter then the Municipal Corporation may consider.”

4. Today, Mr. Dhakephalkar, learned counsel on instructions from his client makes solemn statement before this Court that he himself will demolish the extended portion of his structure beyond 31 sq. meter within 2 weeks from today and thereafter only he will file application for consideration of his license. The statement is accepted. The appellant is directed to act upon his own statement and shall demolish the extended portion of structure beyond 31 sq. meters and the Corporation is given an opportunity to measure the structure. After this exercise is done appellant will be at liberty to apply afresh before the Corporation authority for renewal of his license. The same shall be considered without being influenced by the order passed by Medical Officer, Health Department dated 9/8/2017, which is subject matter of the suit, pending decision of the suit on it's own merits. With this appeal is disposed of. Civil Application is also disposed of.

(V. M. DESHPANDE, J)