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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (St.) No. 5755 OF 2018
WITH
CIVIL APPLICATION (St.) No. 5756 OF 2018

Smt. Saraswatidevi Ramshankar Arya ... Appellant
Vs.
The Municipal Corporation of Gr. Mumbai... Respondent

Mr. Pradeep J. Thorat, for the Appellant.

Ms. M. R. Bhoir, for the Respondent No. 1 - MCGM.

CORAM : V. M. DESHPANDE, J.

DATE : JULY 9, 2018

PC :-

1. Heard the learned counsel for the Appellant and the learned counsel for the Respondent Corporation.

2. The present appeal is directed against the order dated 16th February, 2018 passed by the learned Judge of the City Civil Court, Borivali Division, Dindoshi, in Notice of Motion No. 623 of 2018 filed in L.C. Suit No. 383 of 2018. By the impugned order, pending the notice of motion, the learned court below has rejected ad-interim injunction in favour of the Appellant.

3. The Corporation issued the notice under S. 354A of the Mumbai Municipal Corporation Act, 1888 on 19.1.2018 and Designated Officer passed order on 25.1.2018. According to the notice, the Designated Officer's order, Appellant is carrying out unauthorised construction of mezzanine floor and horizontal extension work, admeasuring 4.5 m X 6 m and 2.4 m. in height with B. M. Wall RSJ section and Ladi Coba Slab, as stated in the notice.

4. It is not in dispute that the Corporation till today, has not filed reply before the trial court.

5. Till the order dated 16.2.2018 was passed, there was order of status-quo in favour of the Appellant. Even after the impugned order was passed, on the very day, learned court below has extended the order of status-quo for 10 days. During this protected period, the Appellant approached this Court and filed present appeal. On 23rd February, 2018 this Court (Coram : Mrs. Mridula Bhatkar, J.) extended earlier order of status-quo and the said order is in operation till today.

6. Learned counsel Mr. Thorat submits that notice of motion is fixed for hearing on 11.9.2018. He therefore, submits that the orders may be passed directing the trial court to dispose of the notice of motion as expeditiously as possible. In that view

of the fact that order of status-quo is in operation from February, 2018 and the Corporation has not filed to the notice of motion, which is fixed on 11.9.2018, it would be in the interest of justice to direct the Corporation to file reply before the trial court. After the reply is filed by the Corporation on or before 11.9.2018, the trial court shall decide the application / notice of motion on merits and in accordance with law, as expeditiously as possible, in any case within a period of six weeks thereafter. Till the said notice of motion is decided by the trial court, the interim order operating in favour of Appellant shall remain in operation. With these directions, appeal is disposed of. All pending applications filed in this appeal shall stand disposed of.

Sd/-
[V. M. DESHPANDE, J.]

Vinayak Halemth