

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

**APPEAL FROM ORDER (STAMP) NO.6653 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO.6656 OF 2018
IN
APPEAL FROM ORDER (STAMP) NO.6653 OF 2018
WITH
APPEAL FROM ORDER (STAMP) NO.6658 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO.6659 OF 2018
IN
APPEAL FROM ORDER (STAMP) NO.6658 OF 2018
WITH
APPEAL FROM ORDER (STAMP) NO.6664 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO.6667 OF 2018
IN
APPEAL FROM ORDER (STAMP) NO.6664 OF 2018
WITH
APPEAL FROM ORDER (STAMP) NO.6672 OF 2018
WITH
CIVIL APPLICATION (STAMP) NO.6673 OF 2018
IN
APPEAL FROM ORDER (STAMP) NO.6672 OF 2018**

Abdul Hamid Abdul Razak

...Appellant

Versus

Municipal Corporation of Greater
Mumbai and Anr.

...Respondents

.....

Mr. Ranjit A. Thorat, senior Advocate with Mr. Pradip J. Thorat for the Appellant/Applicant.

Mr. D.A. Nalawade with Mrs. Madhuri More for the Respondent No.1-BMC.

Mr. Dudhane with Dr. V.G. Bhartu i/b. Ms Mona Dharmendra Vyas for the Respondent No.2.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED: 3rd APRIL, 2018.

P.C.:-

With consent of the parties, matter is heard finally at the stage of admission.

2. The Appellant has challenged the order dated 21st February, 2018 whereby the learned Judge, City Civil Court at Dindoshi, Borivali Division, declined to grant ad-interim relief in notice of motions filed in the L.C. Suit Nos.273 of 2018, 274 of 2018, 275 of 2018 and 276 of 2018.

3. Heard Mr. Ranjeet Thorat, the learned senior counsel for the Appellant, Mr. D.A. Nalawade, the learned counsel for the Respondent No.1 and Mr. Dudhane, learned counsel for the Respondent No.2. I have perused the records.

4. The Respondent No.1-Corporation has issued notice dated 22nd December, 2017 under Section 351 of the Mumbai Municipal Corporation Act, 1888 to the Appellant for demolition of ground floor structure allegedly constructed in CTS 264 Subhash Road, Jogeshwari (East), Mumbai-400060. The Appellant has filed the notice of motions

seeking to restrain the Respondent No.1-Corporation from demolishing the structure pending disposal of the suits.

5. The records reveal that notice dated 22nd December, 2017 refers to the structure allegedly constructed in CTS No.264. The Appellant had replied to the said notice vide reply dated 28th December, 2017 and in paragraph 10 of the reply, the Appellants had specifically stated that the said structures are in CTS 252 and not in CTS 254. The Appellants have also taken a categorical stand that said property CTS 252 has been declared as slum. The Appellant has placed on record agreement for sale, which prima facie indicates that they had purchased the structure CTS 252. Assessment bill as well as payment receipt produced by the Appellant at page 20 of the compilation reveals that the structures, which are sought to be demolished are not the CTS No.252. The electricity bill at page 25 and 26 also prima facie indicates that these are in the name of predecessors of the Appellants and that these bills also prima facie indicate that said structures are existing since the year 1991. The copy of notification dated 16th January, 1996 also prima facie indicates that the property under CTS 252 part and 252/4 to 34 have been declared as slum. The aforesaid material prima facie indicates that the structure, which is

sought to be demolished in CTS 252 is in existence since 1991. Further records prima facie indicates that CTS 252 declared as slum.

6. The Appellant had brought this fact to notice of Assistant Engineer (Building and Factory) “K/E” ward, Municipal Officer Building, MCGM while filing reply under Section 351 of the MMC Act. This reply was not considered while passing order dated 21st February, 2018. In the light of above, in my considered view, status-quo needs to be maintained till the notice of motions are decided on merits. Hence, the Appeals from order are allowed.

7. Both parties are directed to maintain status-quo till the disposal of the notice of motions. The learned counsels submit that the pleadings are complete. The learned Trial Judge to dispose of the notice of motion as expeditiously as possible and preferably within a period of eight weeks from the date on which this order is uploaded.

(SMT. ANUJA PRABHUDESSAI, J.)