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

**APPEAL FROM ORDER NO.485 OF 2018
WITH
CIVIL APPLICATION NO.638 OF 2018
IN
APPEAL FROM ORDER NO.485 OF 2018.**

Nizamuddin Gulam Rasool ... Appellant
V/s.
Municipal Corporation of Greater
Mumbai ... Respondent.

Mr. Vishal Kamande i/by Bhati Associates, for the
appellant.
Mrs. Madhuri More, for respondent corporation.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 25th SEPTEMBER, 2018.

P.C. :

- 1] Heard learned counsel for the appellant and respondent.
- 2] This Appeal is directed against the order dated 21st February, 2018, passed by the City Civil Court, Borivali Division, Dindoshi, Mumbai, thereby refusing ad-interim relief, in the Notice of Motion No.3039 of 2017 in L.C. Suit No.2117 of 2017.
- 3] The said Notice of Motion was taken out by the appellant herein for restraining respondent Municipal Corporation from taking any action in pursuance of the Notice dated 11.5.2017, issued under Section 351 of the Mumbai Municipal Corporation Act, and the

speaking order dated 31.8.2017, passed thereunder by the Designated Officer.

4] It is pointed out by learned counsel for the appellant that the trial Court has refused ad-interim relief on the count that there was nothing on record to show that the appellant's hotel is situated in CTS No.1509 and as the appellant has not filed property card of the said C.T.S. No.1509 to show that he is the owner of the said property. Therefore, it was held that the contention of the appellant that he is owner of the suit property is not sufficient to rely on the extract of C.T.S.NO.1509, which he has produced on record.

5] Learned counsel for appellant also points out that in paragraph No.6 of the impugned order, the trial Court has also rejected the interim relief on the count that the appellant has not produced on record any documentary evidence to show his title to the property, in the letter dated 04.08.2006, issued by the M.M.R.D.A. Thus, it is submitted that the main ground on which the trial Court has rejected the order of ad-interim relief was that the appellant has not produced any document showing his title to the property.

6] Now the appellant has, in this appeal produced on record the City Survey extract at page No.96, showing that the appellant's name is appearing as owner of C.T.S.No.1509.

7] In my considered opinion, in the light of this document and also considering the CTS map stating therein some portion IN black hatch line, thereby indicating that the construction of the said portion is authorized which according to appellant, pertains to the suit construction in respect of which the impugned notice is issued, it would be appropriate to direct the trial Court to decide the Notice of Motion itself, which is still pending before it.

8] As the trial Court has rejected the ad-interim relief, this Court has granted the same at the time of admission of the appeal and hence it would be in the fitness of things to extend the same ad-interim relief granted by this Court, till the disposal of the Notice of Motion.

9] The Appeal is accordingly disposed off with direction to the trial Court to decide the Notice of Motion, as expeditiously as possible. Till the decision of the Notice of Motion, the order of ad-interim relief granted by this Court shall continue.

10] In view of disposal of Appeal itself, Civil Application therein no more survives and is disposed off accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]