

Sarnobat

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

**APPEAL FROM ORDER (STAMP) NO. 10671 OF 2018
ALONGWITH
CIVIL APPLICATION (STAMP) NO. 10673 OF 2018**

Subhash Maganlal Patel. ... Appellant
Vs.
The Municipal Corporation of Greater Mumbai. ... Respondent.

Mr. B. S. Shukla, for the Appellant.
Mrs. M. R. Bhoir, for the Respondent/MCGM.

CORAM : V. M. DESHPANDE, J.

DATE : 28th JUNE, 2018.

P. C. :

1. Heard Shri B. S. Shukla ,learned counsel for appellant and Smt. Bhoir for respondent/Corporation. The present appeal is filed against the order dated 3rd April, 2018 in Notice of Motion No. 1255 of 2018 in L.C.Suit No. 907 of 2018 by which, the Court below has rejected the prayer for ad-interim injunction.
2. After prayer for ad-interim injunction was rejected, the Trial Court extended the ad-interim relief. After filing of the appeal, this Court (Coram: Dr.Shalini Phansalkar-Joshi, J.) on 9th April, 2018 continued the stay which is still in operation.
3. The main application filed on behalf the appellant for

injunction is still pending before the Trial Court. Even the reply is not filed in the said application. The structure in question is not in dilapidated condition and the notice was given under Section 354-A of B. M. C. Act. In that view of the matter, the interest of justice can be secured by following order;

ORDER

- I) The appeal is disposed of by maintaining the order dated 3rd April, 2018 passed by the Court below.
- II) The Court below is directed to decide Notice of Motion No. 1255 of 2018 in L.C. Suit No. 907 of 2018 within a period of 12 weeks from today and till that time, ad-interim order dated 9th April, 2018 passed by this Court shall be in operation.
- III) During the pendency of the Notice of Motion the appellant is directed not to carry any type of construction, any modification, any repairs or alterations to the disputed structure.
- IV) If the appellant carries out any such things, the Bombay Municipal Corporation is at liberty to point out the same to the learned Trial Court and the learned Trial Court in that event, shall take serious note of the same and shall take the necessary action against the

appellant.

V) With this the appeal is disposed of. Civil Application is also disposed of.

[V. M. DESHPANDE,J.]