

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

**APPEAL FROM ORDER NO. 779 OF 2015
WITH
CIVIL APPLICATION NO. 944 OF 2015**

Irshad Ahamed Haji Iqbal Khan	...	Appellant
V/s.		
The Mumbai Municipal Corporation of Greater Mumbai	...	Respondent

- Mr.Mohit P. Jadhav a/w. Ms.Megha Shigavan for the Appellant.
- Mrs.Madhuri More for the Respondent-MCGM.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 11th SEPTEMBER, 2018.

P.C. :

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

2] This Appeal takes an exception to the order dated 11/06/2015 passed by the City Civil Court, Mumbai, thereby refusing the ad-interim relief in the Notice of Motion filed in L.C. Suit No. 1318 of 2015.

3] The grievance of the Appellant is that the subject matter of the suit namely the structure in respect of which the notice is given is in existence since long. He is also having the Census Certificate

dated 24/12/1980 *prima-facie* proving the said fact and therefore, it is submitted that the trial Court has committed an error in refusing to grant the ad-interim relief.

4] Learned counsel for the Respondent pointed out that the notice is issued only in respect of the construction of a room which is undertaken on the toilet and there is no Census Certificate to prove the existence of such room/construction on the toilet.

5] In view thereof, when the Census Certificate is not of the structure in respect of which the notice is issued, the trial Court has rightly refused to grant the ad-interim relief. In Appeal from the said Order, no interference is warranted. Therefore, the Appeal stands dismissed.

6] In view of dismissal of the Appeal, nothing survives in the Civil Application, hence stands disposed of.

[DR.SHALINI PHANSALKAR-JOSHI, J.]