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

**APPEAL FROM ORDER (ST) NO. 23750 OF 2018
WITH
CIVIL APPLICATION (ST) NO.23751 OF 2018
IN
APPEAL FROM ORDER (ST) NO. 23750 OF 2018**

Mujibur Rehman Haji Israr

Alam Siddiqui

V/s.

Municipal Corporation of

Greater Mumbai,

... Appellant.

... Respondents

Mr. Atul Damle, for the Senior Counsel, a/w Mr. Vivek B.
Pandey, for the appellants.

Mrs. Madhuri More, for the Respondents Corporation.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 24th AUGUST, 2018.

P.C. :

1] Heard learned counsel for the appellant and respondent.

2] This appeal is directed against the order dated 14.8.2018,
passed by the City Civil Court, thereby rejecting ad-interim relief in
Notice of Motion (Stamp) No.11028 of 2018, in L. C. Suit.

3] The grievance of the appellant is that his structure since
beginning is of ground plus one upper floor. This fact is already
brought on record in the report of the inspection carried out by

Municipal Corporation itself, way back in the year 2013, as per order passed in Writ Petition No.1852 2012. The said inspection report is dated 6.2.2013, shows that during inspection, it was observed that the premises comprises of ground plus one (part) upper floor wherein the ground floor is used for factory activity and the upper floor (part) is used for dwelling purpose.

4] Thus, it is submitted that if the structure is in existence since year 2013 itself. Notice issued on 9th August, 2018, issued by respondent corporation, alleging that the appellant is carrying out unauthorized vertical extension of industrial shed and construction of mezzanine floor by using M.S. Sections and G.I. Sheets and unauthorised enclosure of premises by fixing G.I. Sheets, is not true and correct. It is submitted that appellant has made statement before the trial Court, and the said statement is continued in this Court also that he is not carrying out any further construction apart from the existing structure of ground plus one floor.

5] In such situation, the submission of learned counsel for appellant is that the trial Court should have granted relief of ad-interim relief restraining respondent from taking any action against the suit structure.

6] However, as rightly pointed out by learned counsel for the respondent corporation and as can be seen from the impugned order

passed by trial Court and the panchnama alongwith report therein that the appellant is carrying out unauthorized construction of vertical extension of industrial shade and construction of mezzanine floor by using MS Sections and GI sheets and unauthorized enclosure of premises by fixing GI sheet was in progress. Apart from the panchnama and report, there are also photographs produced on record to that effect which prima facie show that the appellant has undertaken construction for which admittedly permission is not obtained.

7] In view thereof, no fault can be found in the impugned order passed by the trial Court. No interference is warranted therein.

8] The appeal therefore is devoid of merit.

9] In view of dismissal of Appeal itself, Civil Application therein is disposed off accordingly.

[DR.SHALINI PHANSALKAR-JOSHI, J.]