

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (STAMP) NO.772 OF 2019

Girish Jalan, Through his C.A. Deepak B. Saraf V/s. Asst. Engineer (Maintenance), K-West Ward, Municipal Office, Andheri (West) and Anr.	 Appellant Respondents
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Mr. Gauraj Shah, I/by Mr. Mangesh Humane, for the Appellant.

Mrs. Madhuri More for the Respondent-MCGM.

CORAM : DR. SHALINI PHANSALKAR-JOSHI, J.

DATE : 18TH JANUARY, 2019.

P.C. :

1. Heard learned counsel for both the parties.
2. This Appeal is directed against the order dated 21st December 2018 passed by the City Civil Court, Mumbai in Notice of Motion No.4443 of 2018 in L.C. Suit No.3745 of 2018.
3. By the said Notice of Motion, the Trial Court has refused the ad-interim relief of injunction to the Appellant, as it was in the nature of mandatory injunction, directing the Respondent-MCGM to restore the

premises, which were demolished, pursuant to the notice and, that too, for the public cause.

4. In view thereof, absolutely no reason is made out to interfere in the impugned order passed by the Trial Court, as the law is well settled that the relief of interim mandatory injunction can be granted only in rare and exceptional cases. When the suit premises are required by the Respondent-Municipal Corporation for the public interest, then it is needless to state that, such rare or exceptional circumstance is not made out for the grant of ad-interim mandatory injunction. Hence, the Trial Court has rightly rejected the ad-interim mandatory injunction.

5. In Appeal from such a discretionary order, no interference is warranted at the hands of the Appellate Court; especially when the Notice of Motion is pending before the Trial Court. The Appeal, therefore, stands dismissed.

[DR. SHALINI PHANSALKAR-JOSHI, J.]