

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

**APPEAL FROM ORDER (ST.) NO. 2430 OF 2019
WITH
CIVIL APPLICATION (ST.) NO. 2431 OF 2019**

Mehul Hari Thakur	...	Appellant
V/s.		
Municipal Corporation of Greater Mumbai	...	Respondent

- Mr.Doodhnath Saroj a/w. Mr.D.R. Chaudhary for the Appellant.
- Mrs.Madhuri More for the Respondent-MCGM.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 28th JANUARY, 2019.

P.C. :

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

2] This appeal is directed against the order dated 21/01/2019 passed by the City Civil Court, Mumbai, thereby dismissing the Notice of Motion No.252 of 2019 in L.C. Suit (St.) No. 14039 of 2018.

3] The said Notice of Motion was taken out by the Appellant to restrain the Respondent-Corporation from taking any action in pursuance of the notice issued under Section 351 of the MMC Act on the ground that the structure is illegal and unauthorized. On the presentation of the Notice of Motion, the Appellant has sought ad-

interim relief, which came to be rejected by the trial Court. As a result thereof, the suit structure has been demolished. According to learned counsel for the Appellant, it is partly demolished. Whereas, according to the Respondent, its demolition report is also filed on record which shows that the demolition had already taken place on 25/10/2018.

4] In view thereof, the trial Court was perfectly justified in rejecting the Notice of Motion, as the Notice of Motion itself has become infructuous. Admittedly, the Appellant has not challenged the order of refusal of ad-interim relief and as the trial Court has held that there is no substance in his contention as the legality and validity of the suit construction was not proved.

5] In view thereof, in the Appeal from such discretionary order, no interference is warranted, as otherwise the Appeal has become infructuous.

6] Hence, the Appeal along with Civil Application being without merit stand dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]