

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

**APPEAL FROM ORDER (ST.) NO. 4956 OF 2019
WITH
CIVIL APPLICATION (ST.) NO. 4958 OF 2019
IN
APPEAL FROM ORDER (ST.) NO. 4956 OF 2019**

Beevathu w/d of Haji M C Abdul Kadar & Ors.Appellants
V/s.
The Municipal Corporation of Greater Mumbai & Ors.
....Respondents

Mr. Nagendra S. Dube for the appellants.
Ms. Madhuri M. More for MCGM/R.Nos.1 and 2.
Mr. S.L. Singh for R.Nos.3 to 6.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 20th FEBRUARY, 2019.**

P.C.:

- . Not on board. Upon mentioning, taken on production board.
2. With consent, heard finally at the stage of admission.
3. The appellants herein have challenged the order dated 06/02/2019 in Notice of Motion No.500 in S.C. Suit No.289 of 2019. By the impugned order, the learned Judge, City Civil Court, Dindoshi has refused to grant ad-interim relief.

4. The appellant herein who was the plaintiff in the suit has challenged the final order dated 29/01/2016 whereby he was called upon to demolish the unauthorized structure referred to in the notice under Section 351 dated 03/03/2015.

5. Mr. Nagendra Dube, the learned counsel for the appellant submits that the notice was first issued on 25/11/1980 and thereafter in the year 1989-90. He has submitted that the structure was regularized and by order dated 31/01/1986, the appellant was informed that an action under Section 351 would not be pursued.

6. At this stage, it is not necessary to go into the merits of the matter. The records prima facie indicates that the structure is in existence since long. In the event, the ad-interim relief is not granted, the structure will be demolished even without giving an opportunity to the appellant to establish his case. Hence, in my considered view, in the interest of justice, it is necessary to maintain the status quo till the notice of motion is finally heard. Hence, the following order :-

(i) Appeal from Order is allowed.

(ii) Parties are directed to maintain status quo in respect of the

subject structure till the disposal of the notice of motion.

(iii) The learned Judge, City Civil Court, Dindoshi is directed to dispose of the Notice of Motion No.500 of 2019 in S.C. Suit No.289 of 2019 as expeditiously as possible and in any case within a period of two months from the date of appearance of parties in the trial Court.

(iv) Parties are directed to appear before the learned Judge, City Civil Court, Dindoshi on 04/03/2019.

(v) It is made clear that this Court has not gone into the merits of the matter. All points and contentions are specifically kept open.

7. Appeal stands disposed of accordingly.

(SMT. ANUJA PRABHUDESSAI, J.)