

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

**APPEAL FROM ORDER NO. 384 OF 2019
WITH
CIVIL APPLICATION NO. 457 OF 2019**

Mohammed Hussain Khan	...	Appellant
V/s.		
The Municipal Corporation of Greater Mumbai	...	Respondent

Mr.V.R. Tripathi for Appellant.
Ms.Madhuri More for Respondent.

CORAM : A.S. GADKARI, J.

DATE : 13th November 2019.

PC. :

1] By the present Appeal, the appellant has impugned Order dated 20th February 2018 passed by the City civil Court, Borivali Division, Dindoshi, Mumbai, in Draft Notice of Motion in L.C. Suit No. 386 of 2018, thereby rejecting the ad-interim relief in favour of the appellant.

2] The record indicates that, the Notice of Motion filed by the appellant is pending on the file of the Trial Court for final adjudication and it is only the ad-interim relief that has been refused by the Trial Court.

3] The appellant has filed the aforestated suit challenging show-cause-notice under Section 351 of the Mumbai Municipal Corporation Act directing him to pull down unauthorized structure erected by him, more specifically mentioned in Notice dated 8th August 2017 issued by the Corporation. It is the contention of the appellant that, the said structure is assessed for revenue purpose by the Corporation and he has been put in the said structure prior to the datum line as a tenant by the landlord. The record indicates that, there is no permission granted by the Corporation to the appellant to erect the said structure. *Prima-facie* it further appears that, the said structure is unauthorized structure erected by the petitioner. The report of the Licence Inspector of the respondent-Corporation lays credence to the said finding.

4] In view of the above, I find no merits in the Appeal.

Appeal is accordingly dismissed in limine.

5] In view of dismissal of the Appeal, the Order dated 6th March 2018 granting ad-interim relief does not survive.

6] In view of dismissal of the Appeal, Civil Application does not survive and is accordingly disposed off.

[A.S. GADKARI, J.]