

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

**APPEAL FROM ORDER NO.185 OF 2019
WITH
CIVIL APPLICATION NO. 223 OF 2019
IN
APPEAL FROM ORDER NO. 185 OF 2019
AND
APPEAL FROM ORDER NO.187 OF 2019
WITH
CIVIL APPLICATION NO. 226 OF 2019
IN
APPEAL FROM ORDER NO. 187 OF 2019**

Smt. Rashida Bano Tufail Ahmed Qureshi ...Appellant

V/s.

The Municipal Corporation of
Greater Mumbai

...Respondent

....

Shri P. J. Thorat, advocate for the appellant in both the appeals.
Shri A. Y. Sakhare, Sr. Advocate a/w Mrs. More, advocates for
the respondent/MCGM in both the appeals.
Mr. Prashant Patil, Sub-Engineer, Maintenance Department, H/E
Ward, MCGM present in the court.

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CORAM : M.S.KARNIK, J.

DATE : 14th JUNE, 2019

P.C. :

1. The challenge in these appeals is the order passed by the Judge, City Civil Court refusing to grant any ad-interim relief particularly on the ground that the plaintiff failed to produce

any document on the record to show that the structures are authorised.

2. During the course of hearing of the appeals, Sr. Counsel Shri Sakhare on instructions of Mr. Prashant Patil, Sub-Engineer, BMC, who is present in the court, would submit that though it is not incumbent for the Corporation in law to give notice to such unauthorised structures under section 314 of the MMC Act, but to avoid any unnecessary delay and further complications, the Corporation would issue notice in respect of these structures which plaintiff claims to be in occupation.

3. Learned Sr. Counsel Shri Sakhare further submits that presently action will be taken in respect of those structures which are standing on the area needed for widening the Nallah as shown in the map. It is contended that in the first phase Corporation plans to widen the Nallah and in the second phase the plan is to construct six meter wide access road adjacent to Nallah for cleaning and maintenance purpose.

4. It is the contention of learned Sr. Counsel Shri Sakhare that the structures of the plaintiff falls on the six meter road

for which notice as stated hereinbefore would be issued. It is again made clear that this is without prejudice to the stand of the Corporation that no such notice is required to be issued.

5. As it would be always be open for the appellant to take legal recourse after the notice is served, learned counsel for the Corporation states that before taking action of demolition, notice indicating above will be issued.

6. In this view of the matter, appeals stands disposed of.

7. Learned counsel Shri Thorat submits that he would make a formal application for withdrawal of the suits before the trial court within a period of one week from today.

8. These Appeals are disposed of in the above terms.

9. Civil applications are also disposed of in view of the disposal of the Appeals.

(M.S.KARNIK, J.)