

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

**APPEAL FROM ORDER NO. 186 OF 2019
WITH
CIVIL APPLICATION NO. 224 OF 2019
IN
APPEAL FROM ORDER NO.186 OF 2019**

Mohd. Aslam Tufail Ahmed Qureshi ...Appellant

V/s.

The Municipal Corporation of
Greater Mumbai

...Respondent

....

Shri P. J. Thorat, advocate for the appellant.

Shri A. Y. Sakhare, Sr. Advocate a/w Mrs. More, advocates for
the respondent/MCGM.

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. Learned Sr. Counsel Shri Sakhare appearing on behalf of
the Corporation placed on record notice dtd.14/06/2019 issued
under section 314 of the MMC Act to the appellant to remove
the unauthorised structure. The notice is taken on record and
marked as Exh. X-1 for identification. This is without prejudice

to the contention of Shri Sakhare that there is no requirement in law to issue such a notice. The notice is being issued only with a view to avoid delay.

2. In this view of the matter, learned counsel Shri Thorat for the appellant submits that he may be granted reasonable time to challenge this notice.

3. In view of this notice, the suit filed before the trial court itself is worked out. The only relief sought in the suit was not to demolish the structure without following the due process of law.

4. Now, the notice has been issued. The appellant has to approach the competent forum challenging the said notice if he so desires. Nothing therefore survives for consideration in this Appeal and in the suit as well.

5. Learned counsel Mrs. More appearing on behalf of the Corporation will inform the concerned counsel appearing on behalf of the Corporation the order passed by this court, so as to enable the trial court to pass appropriate orders in the suit.

6. In this view of the matter, now that the notice has been issued, with a view to enable the appellant to take recourse to

appropriate remedy as may be available to him in law, parties are directed to maintain status quo till 17/06/2019 in respect of the structure for which the notice dtd. 14/06/2019 is issued.

7. In this view of the matter, the Appeal and Civil Application are disposed of with no order as to costs.

(M.S.KARNIK, J.)