

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 340 OF 2018

WITH

CIVIL APPLICATION NO. 446 OF 2018

IN

APPEAL FROM ORDER NO. 340 OF 2018

WITH

CIVIL APPLICATION NO. 484 OF 2018

IN

APPEAL FROM ORDER NO. 340 OF 2018

Sanjay Maruti Kamble

.....Appellant.

Vs.

Municipal Corporation of
Greater Mumbai & Ors.

.....Respondents.

Mr. Milan Desai i/by T.R. Patel for the Appellant.
Smt. Madhuri More for the Respondent No.1-MCGM.

CORAM : A. S. GADKARI, J.

DATE : 18th NOVEMBER, 2019.

P.C.:-

By the present Appeal, the Appellant has impugned Order dated 8th March, 2018 passed by the learned Judge, City Civil Court, Borivali Division, Dindoshi, Mumbai, dismissing Notice of Motion No.1259 of 2013 in L.C. Suit No. 1562 of 2013.

2 Heard Mr. Desai, the learned counsel for the Appellant and Smt. Madhuri More, the learned counsel for the Municipal Corporation. Perused the entire record annexed to the Appeal.

3 The Appellant has filed the aforestated Suit, for injunction against the Corporation from implementing notice dated 7th July, 2012 issued under Section 55 of the MRTP Act and Order dated 7th May, 2013, for demolishing the Suit premises i.e. a shed made up of GI Sheets and wooden bamboos admeasuring about 18' x 12' x 6 (height) situated on CTS No. F-1147 (part), Rationing office compound, S.V. Road, Bandra, Mumbai 400050.

4 The record indicates that, the said plot of land has been declared as a slum and has undertaken for the Slum Rehabilitation Project. That, a rehabilitation project of the said slum is being carried out by a Developer. The record is absolutely silent about the basic fact that, the Appellant was held to be eligible, as slum dweller in the said scheme and was entitled for alternate accommodation. It further appears that, the name of the Appellant does not appear in the record of Annexure-II prepared by the concerned Competent Authority. It further appears that, with a view to take undue advantage of the scheme floated by the Government for the benefit of slum dwellers,

the Appellant has erected the said structure. There is no record to indicate that, the Appellant was in fact occupant of the said suit structure. The record further indicates that, the Appellant has erected the said unauthorized construction after the visit of the Court Commissioner on 24th November, 2011.

5 The balance of convenience does not lie in favour of the Appellant. No harm, loss or prejudice of whatsoever nature would be caused, if the interim relief is not granted in favour of the Appellant.

I find no merits in the Appeal. Appeal is accordingly dismissed.

In view of the dismissal of the Appeal itself, Civil Application Nos. 446 of 2018 and 484 of 2018 do not survive and are also disposed off.

(A.S. GADKARI, J.)