

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER (ST) NO.14243 OF 2017
WITH
CIVIL APPLICATION (ST) NO.14244 OF 2017
IN
APPEAL FROM ORDER (ST) NO.14243 OF 2017**

Mr. Manish Chotelal Tiwari .. Appellant

Versus

Municipal Corporation of Greater

Mumbai and Anr. .. Respondents

Mr. R.R. Mishra for appellant.

Mrs. Madhuri More for respondent Nos.1 and 2.

CORAM : K.K. TATED, J.

DATE : 11 MARCH 2019.

P.C:-

. Heard learned Counsel for parties.

2. By this appeal from order, appellant/original plaintiff is challenging the order dated 29.04.2017 passed by City Civil Court, Bombay in Notice of Motion No.1545 of 2017 in L.C. Suit No.1019 of 2017 refusing to grant ad-interim relief.

3. The learned Counsel for the appellant/original plaintiff submits that respondent-Corporation issued notice under Section 351 of Municipal Corporation Act, 1888 dated 27.10.2016 in

respect of unauthorized construction of shop on chamber line in between house gully of building No.122-126, Kika street and Building No.132, Kika street by the way of rolling shutter and G.I. Sheets

4. The learned Counsel for the appellant submits that the trial Court failed to consider the fact that corporation themselves has issued them shop licence and other licences to carry on business. Hence, he has filed present Appeal from Order.

5. It is to be noted that 351 notice dated 27.10.2016 itself shows that plaintiff has carried out unauthorized construction of shop on chamber line in between house gully. Apart from that though the impugned order was passed on 29.04.2017, till today the matter is pending for admission. Apart from that this Court by order dated 15.05.2017 directed parties to maintain status quo. Considering the fact that status quo order is since 2017, in the interest of justice following order is passed :-

a) Hearing of Notice of Motion No.1595 of 2017 in L.C. Suit No.1019 of 2017 is expedited.

b) This Court expect the trial Court to decide the Notice of Motion No.1595 of 2017 on its own merits on or before 30.06.2019 after hearing both sides.

- c) Till the final decision of Notice of Motion No.1595 of 2017, both the parties are directed to maintain status quo as per earlier order dated 15.05.2017.
- d) Appeal from order as well as civil application stands disposed of.
- e) No order as to costs.

(K.K. TATED, J.)