

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

**APPEAL FROM ORDER NO. 438 of 2018
WITH
CIVIL APPLICATION NO. 580 OF 2018**

Smt. Hemali Dilip Shah & Anr. ..Appellants

v/s.

The Municipal Corporation of Gr. ..Respondents
Mumbai & Ors.

Mr. Ashok Suryavanshi for the Appellant
Mr. F.M.Reis, Sr. Advocate a/w. Mrs. Madhuri More for the
Respondent-MCGM.
Mr. J.R.Vaikl I/b. J.R.Vakil & Associates for the Respondent No.2.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 28th FEBRUARY, 2019.**

P.C.

1. The appellant herein has challenged the Order dated 24th March, 2018, whereby the learned Judge, City Civil Court, Dindoshi, has rejected the prayer for ad-interim relief in Notice of Motion No. 2033 of 2018 in Suit No.1728 of 2018.
2. The appellant has challenged the notice issued under Section 53 of the MRTP Act in respect of the parking space nos. 50, 51 and

52 on the ground floor of Rajyog Residency CHS Ltd., Opp. Tulsi Tower, M.G.Road, Goregaon (W), Mumbai. The main grievance of the appellant was that the show cause notice was issued to the Chairman/Secretary of the Society and that no individual notice was served on him and that he had no opportunity of giving reply.

3. Shri Reis, the learned Sr. Counsel for the Respondent Corporation concedes that no individual notice was given. He however contends that it was not necessary to give individual notice. Learned Sr. Counsel Shri Reis however submits that the applicant can be given an opportunity to file reply to the notice within two weeks and seek regularization of the subject structure, if necessary. He further states that the Corporation shall not demolish the structure till the decision on the reply/regularization is taken and for a further period of three weeks from the date of communication of the decision, in the event the decision is adverse and against the interest of the applicant. Statements are accepted.

4. In the light of the above statement, the learned Counsel for the appellant seeks leave to withdraw the appeal with liberty to file reply to the show cause notice and/or seek regularization, if

necessary.

5. Leave with liberty granted. Appeal is dismissed as withdrawn.

In view of withdrawal of the appeal, Civil application does not survive and the same is disposed of.

(ANUJA PRABHUDESSAI, J.)