

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

**APPEAL FROM ORDER (STAMP) NO.15083 OF 2019
WITH
CIVIL APPLICATION (STAMP) NO.15084 OF 2019
IN
APPEAL FROM ORDER (STAMP) NO.15083 OF 2019**

Mr. Vinod Palji Rathod ...Appellant
V/s.
Municipal Corporation of Greater Mumbai
& Ors. ...Respondents

....

Shri Kishor Maru, advocate for the appellant.
Mrs. More, advocate for the respondent Nos. 1 & 2/MCGM.
Shri Omkar Warange, advocate for the respondent No. 3.

....

CORAM : M.S.KARNIK, J.

DATE : 17th JUNE, 2019

P.C. :

1. In respect of the unauthorised extension made to the structure in question, the Corporation had issued a notice under section 351 of the MMC Act. Thereafter demolition order was made under section 488 of the said Act.
2. The appellant approached the trial court by way of filing a suit. The prayer for ad-interim relief restraining the Corporation

from demolishing the suit premises during the pendency of the notice of motion came to be rejected.

3. After arguing the appeal for some time, learned counsel for the appellant on instructions of the appellant, who is present in court, submitted that he is willing to apply for regularisation. He has filed an affidavit dtd.17/06/2019, which is taken on record, stating that on 15/06/2019 he has already filed an application for regularisation of the additional structure mentioned in the notice dtd.08/02/2019. He has also submitted in the affidavit that in the event the application for regularisation is rejected, he will himself remove/pull down/demolish the additional structure mentioned in the notice at his own costs.

4. In this view of the matter, the Corporation is directed to consider the application for regularisation. Hence, the following order :-

- (i) Though the appellant has made an application for regularisation on 15/06/2019, he is at liberty to make an appropriate application in

accordance with the rules for regularisation within a period of 4 weeks from today alongwith the requisite documents.

(ii) If the Corporation is of the opinion that the application is defective for want of any relevant information or it is not in appropriate form, the Corporation to inform the defect in the application within a period of two weeks from the date of application.

(iii) The appellant to remove the defects within a period of two weeks from the date of intimation. If the defects are cured or if no steps are taken by the appellant to remove the defects within the stipulated period, the Corporation to consider the application for regularisation in accordance with law and communicate the decision to the appellant as per the procedure prescribed.

(iv) In the event, the application for regularisation is

rejected, as per the Undertaking given to this court by way of an affidavit dtd.17/06/2019 and which is accepted, the appellant has to remove the additional structure as mentioned in the notice dtd.08/02/2019 at his own cost.

5. It is made clear that the appeal is considered for the limited purpose of directing the Corporation to decide the application for regularisation made by the appellant and shall have no bearing on proceeding which may be filed by the respondent No. 3 for recovery of the possession, which obviously shall be dealt with on its own merits and in accordance with law.

6. Learned counsel for the appellant to apply for the withdrawal of the suit pending before the trial court within a period of one week from today.

7. Appeal is disposed of in the abovesaid terms.

8. In view of the disposal of the Appeal, Civil Application is disposed of accordingly.

(M.S.KARNIK, J.)