

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

**CIVIL APPLICATION NO.2286/2013
in
FIRST APPEAL NO.717/2013**

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
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Advocate Mr.KP Mali for applicant.
Advocate Mrs. Sheetal Mane for Respondent no.1.

**CORAM : K. K. TATED, J
DATE : AUGUST 9, 2019.**

P.C.:

Heard learned counsel for parties.

2 By this civil application, applicant is seeking order of injunction restraining respondent from demolishing and or removing any part of the suit premises, pursuant to Notice dated 13.1.2011 and impugned order dated 28.1.2011.

3. Learned counsel for applicant submits that

during the pendency of suit they preferred notice of motion no.320/2011 in L.C. Suit no.309/2011 . That notice of motion was made absolute by the trial court by order dated 7.12.2011 and granted interim protection to applicant. He submits that first appeal already admitted. Hence, during pendency of first appeal, respondent may be restrained from taking any coercive action against them, pursuant to the notice dated 13.1.2011 and order dated 28.1.2011 . He submits that, if civil application is not allowed, nothing will survive in the present proceeding.

3 On the other hand, learned counsel Mrs.Sheetal Mane appearing on behalf of respondent/Corporation, vehemently opposed present applicant. He submits that the trial court after considering the evidence on record, held that applicant carried out unauthorized construction. Therefore, there is no question of allowing the civil application.

4 Heard both sides at length. It is to be

noted that in present proceeding, there was interim relief in favour of applicant during the pendency of suit. Considering these facts and earlier order passed by the trial court on 7.12.2011 , I am satisfied that applicant has made out a case for interim protection. Hence, the following order.

a)Pending hearing and final disposal of First Appeal, order dated 7.12.2011 passed by City Civil Court, Mumbai, in Notice of motion No.320/2011 in L.C.Suit no.309/2011 to continue.

b)Applicant to file private paper book in First Appeal within 3 months from today with copy to other side.

(K.K.TATED, J.)