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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.900 OF 2016

Smt.Pragna Bipin Lodhavia ...Appellant
vs.
Mumbai Municipal Corporation
of Greater Mumbai ...Respondent

Mr.Nirav G. Shah I/b V.P.Shastri for the Appellant
Ms Oorja Dhond for the respondent-MMC.

CORAM : M.S.KARNIK, J.
DATE : JULY 15, 2019

P.C.:

1 The challenge in this Appeal is to the order dated 18th June 2010 passed by the Judge, City Civil Court, Mumbai refusing ad-interim relief. The challenge in the suit is to the show cause notice issued under section 351 of the Mumbai Municipal Corporation Act, 1888 dated 15th May 2012 alleging unauthorised horizontal extension to existing structure with B.M.Walls and ladi coba girder slab roofing admeasuring 1.65 m x 6.07 m and height of 2.40m and 10.71m x 6.07m with a height of 4.5 m. Ad-interim order was refused as far back as 18th June 2016. During the pendency of this appeal there is no interim protection in favour of the appellant.

2 The learned counsel for the appellant invited my attention to the order dated 21st July 2012 passed by this Court in Writ Petition (L) No.1354 of 2012

where the appellant was also one of the party petitioners. He invited my attention to the operative order wherein it is mentioned that the petitioners have already filed individual undertakings to vacate the entire area in occupation when called upon to do so under the Tripartite Agreement. The Undertakings are already accepted. As the petitioner states that he has filed undertaking cum agreement, he obviously has complied with the order passed by this Court in Writ Petition (L) No.1354 of 2012. However, in so far challenge to the notice under section 351 of the said Act is concerned, ad-interim is refused by the order dated 18th June 2016 and there is no interim protection granted during the pendency of this Appeal.

3 I see no reason to interfere with the order impugned. I am however inclined to direct the Trial Judge to dispose of the Notice of Motion No.1831 of 2016 in L.C.Suit No.949 of 2016 within a period of eight weeks from today. With these observations, Appeal from Order is disposed of. Civil Application does not survive and the same is also disposed of.

(M.S.KARNIK,J.)