

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2491/2015
IN
FIRST APPEAL NO.830/2015

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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Mr.B.S.Shukla for appellant.
Mrs. Oorja Dhond for BMC.

CORAM : K.K.TATED, J.
DATED : APRIL 26, 2019

P.C.

Heard learned counsel for the parties.

2 By this civil application, the applicant/plaintiff is seeking order of injunction restraining respondent/Corporation from demolishing suit structure as described in plaint, till hearing and final disposal of First Appeal.

3 Learned counsel for applicant/plaintiff submits that during pendency of L.C.Suit

No.756/2005 the trial court had granted ad-interim relief which was continued till hearing and final disposal of the suit. The interim order reads thus:

“Adv.Mr.B.P.Shukla for the plff.
Adv.Mrs.Phulsunge for the deft.BMC.
Heard advocates.
Leave to take out motion granted.
Motion made returnable forthwith.
Plff to register the N/M and communicate the registration number o/b 17/2/06.
Ad-interim relief in terms of prayer (a) with clarification that structure assessed by assessment No.KE 11814(2) is protected. If, suit structure is not covered under KE 11814(2) the protection granted shall stand vacated automatically.
The concerned officer is directed to remain present on 17/2/06.
Earlier adjournment is set aside.”

He submits that during pendency of present First Appeal, said order to continue.

4. On the other hand, learned counsel appearing on behalf of the respondent/Corporation vehemently opposed present civil Application. She submits that the trial court after considering the evidence on

record, has rightly held that the plaintiff failed to make out any case. Therefore, there is no question of granting an interim relief in favour of the applicant.

5. I heard both the sides at length. It is to be noted that in the present proceeding, First Appeal filed by applicant, challenging Judgment and Order dated 26.6.2015 is already admitted. Apart from that, interim protection was continued in favour of applicant for last several years. In view of this fact, I am of the opinion that interim protection granted by learned City Civil court on 08.02.2006 as reproduced hereinabove to continue till final hearing of First Appeal. Hence, following order.

A) Order dated 8th February 2006 passed by trial court, granting interim protection in favour of applicant to continue till the hearing and final disposal of first appeal.

B) Civil Application stands
disposed of accordingly.

(K.K.TATED,J.)