

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

**APPEAL FROM ORDER NO. 06 OF 2017
WITH
CIVIL APPLICATION NO. 08 OF 2017**

Farukh Usman Shaikh	...	Appellant
V/s.		
The Municipal Corporation of Greater Mumbai	...	Respondent

Mr.A.S. Munjekar for Appellant.
Ms.Madhuri More for Respondent.

CORAM : A.S. GADKARI, J.

DATE : 13th November 2019.

PC. :

1] By the present Appeal, the appellant has impugned Order dated 4th August 2015 passed by the City Civil Court, Borivali Division, Dindoshi, Mumbai, thereby refusing to grant ad-interim relief in favour of the appellant in a Draft Notice of Motion in L.C. Suit No. 234 of 2015 moved by him. The record further indicates that, the Notice of Motion filed by the appellant is pending for final hearing before the Trial Court.

2] The record indicates that, the respondent-Corporation had issued a notice under Section 488 of the Mumbai Municipal Corporation Act (for short, “M.M.C. Act”), dated 22nd January 2015 thereby informing the appellant that the Designated Officer of the Corporation will visit the suit premises on 28 and 29th January 2015 or thereafter for taking demolition action of the structure unauthorizedly constructed by the appellant in the suit premises.

3] The record further indicates that, on earlier occasion also, the Corporation had issued notice under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966, dated 20th January 2009 mentioning that, the construction work carried out by the appellant is beyond the scope of approved plan. The record further indicates that the 4th floor structure of the building wherein the appellant is residing was demolished by the Corporation in the year 2014.

4] Perusal of record would indicate that, the balance of convenience does not lie in favour of the appellant. The appellant has also *prima-facie* failed to prove the fact that, the notice impugned by him in the said suit issued under Section 488 of the M.M.C. Act is illegal or is issued with *malafide* intention.

5] In view of the above, I find no merits in the Appeal.

Appeal is accordingly dismissed.

6] In view of dismissal of the Appeal, Civil Application does not survive and is accordingly disposed off.

[A.S. GADKARI, J.]