

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****CIVIL APPLICATION NO.982 OF 2019
IN
APPEAL FROM ORDER NO.554 OF 2017**

Mr. Ismail Piran Qureshi

...Applicant/Appellant

vs.

Municipal Corporation of Greater Mumbai & Anr. ...Respondents

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Ms. Rashida Kherodawala, i/b. Mr. Rameshwar G. Shatalwar, for the Applicant.

Ms. Madhuri More, for Respondent -MCGM.

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CORAM : S.C. GUPTE, J.

DATED : 14 AUGUST 2019

P.C. :

. This civil application is taken out for a clarification in the order passed on 25/26 February 2019 in the earlier civil application taken out by the Applicant in the present appeal from order. The earlier application, namely, Civil Application No.1013 of 2018, was for interim relief in a disposed of appeal from order. The application sought to restrain the Respondent Corporation from taking any action in respect of the suit premises in pursuance of the notice issued under Section 488 of the Mumbai Municipal Corporation Act till his regularization application was decided. The Respondent Corporation has disputed the fact that the Applicant filed any regularization application or that any such application was pending decision. The Court, after perusing the record

of the case, observed that the Applicant had come out with a specific plea that he had filed regularization application on 6 November 2017, which statement was specifically disputed by the Respondent Corporation. The Court noticed that the Respondent had placed on record a copy of a letter addressed by the architect of the Applicant, stating *inter alia* that he had created a temporary proposal on 6 November 2017, but since the Applicant did not pay requisite scrutiny fees or furnish any documents, the file could not be sent for further process. The Court was, therefore, of the view that there was no merit in the application for interim relief filed by the Applicant and dismissed the civil application accordingly. The grievance of the Applicant in the present civil application is that since the matter has been subjudice and the order has been passed by this Court on 25/26 February 2019, the Applicant is not able to engage any architect to make any application for regularization. The order of 25/26 February 2019 does not in any way prohibit the Applicant or restrict his rights to appoint any architect and process any regularization application that he may wish to file. It is clarified accordingly.

2. Learned Counsel for the Corporation submits that this order should not come in the way of the Corporation taking steps in pursuance of its notice under Section 488, since the Applicant's appeal from order has already been dismissed by this Court and the earlier civil application itself was made post disposal of the appeal. Learned Counsel for the Applicant submits that she is not seeking any protection in the present civil application so far as the notice of the Corporation under Section 488 is concerned. There is, accordingly, no need for any apprehension of the Corporation.

3. The civil application is disposed of in the above terms.

(S.C. GUPTE, J.)

**Smita
Gonsalves**

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