

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.314 OF 2019
IN
CIVIL APPLICATION NO.982 OF 2019
IN
APPEAL FROM ORDER NO.554 OF 2017

Mr. Ismail Piran Qureshi ... Appellant

Versus

The Municipal Corporation of
Greater Mumbai

And Another ... Respondents

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Mr. Gaurang Shah a/w Rashida Kherodawala i/b R.G. Shatalwar for the Applicant.

Mr. N.V. Walawalkar, Senior Advocate a/w Ms. Madhuri More for the Respondents-MCGM.

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CORAM : S.C. GUPTE, J.

DATE : 23 AUGUST 2019

P. C. :

. Heard learned Counsel for the parties.

2 This Civil Application, which is taken out in a disposed of
Appeal from Order, seeks protection in respect of the suit premises,
an unauthorized structure, till the disposal of the regularization
application made in respect of the premises by the Respondent-MCGM.
The record of the case indicates that original unauthorized structure
was demolished by the Respondent-MCGM on 28 December 2016,

whereafter the structure was re-erected without permission from the Respondent-MCGM. The fact of the previous demolition was even suppressed from the court, whilst seeking an order for protection of the suit structure in the suit. The trial court rejected the interim application of the Applicant. In the appeal from order, this Court noticed facts quoted from the order of the trial court, particularly concerning the previous demolition of the structure and its re-erection without reference to the Respondent-MCGM. Whilst dismissing the appeal from order, this court, on a humanitarian ground, gave some time to the Applicant/Appellant for vacating the suit premises.

3 On these facts, the Applicant/Appellant cannot be granted any further relief in the disposed of appeal from order for protecting the suit structure pending the disposal of his regularization application, if any. Learned Counsel for the Respondent-MCGM has brought to my notice that the civil application has been affirmed by a constituted attorney of one Ismail Piran Qureshi, the Appellant herein, much after the death of the Appellant Qureshi. The record of the case bears out that Qureshi died on 10 April 2018. The original civil application in the appeal from order was made on 28 November 2018, as a constituted attorney of deceased Qureshi. That application was disposed of by a learned single Judge of this Court observing *inter alia* that the application restraining the Respondent-MCGM from demolishing the suit structure was on a false pretext that the Applicant had already filed an application for regularization and the same was pending decision of the Respondent-MCGM. The Court

found no merit in that civil application and dismissed the same. It appears that the Applicant thereafter obtained a clarification from this Court that that last order passed by a learned single Judge does not in any way prohibit the Applicant or restrict his rights to appoint any architect or process any regularization application that he may choose to file. It appears that in pursuance of that clarification, a regularization application is now proposed to be filed. The Architect appointed by the Applicant/Appellant submits that he would be filing such application within four days from today. That obviously cannot come in the way of the Respondent-MCGM acting in accordance with law in pursuance of the demolition notice, of which the Applicant/Appellant has failed to get any stay.

4 There is, accordingly, no merit in the application. The Civil Application is disposed of.

(S.C. GUPTE, J.)