

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

APPEAL FROM ORDER (st) NO. 25396 OF 2018
WITH
CIVIL APPLICATION (ST) NO. 25397 OF 2018
and
CIVIL APPLICATION (ST) NO. 26766 OF 2018

Mr. Shailendra Virendra Patni ..Appellant

v/s.

The Municipal Corporation of Gr. Mumbai ..Respondents

Mr. B.S.Shukla for the Appellant and applicant in CAAST/25397/18..

Mrs. Madhuri More for the Respondent MCGM in Appeal from Order and CAAST/25397/18.

None for the applicant in CAAST/26766/2018.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 25th FEBRUARY, 2019.**

P.C.

1. The appellant herein has challenged the Order dated 29th August, 2018 whereby the learned Judge, City Civil Court, Dindoshi, Mumbai has rejected grant of ad-interim relief.
2. The appellant herein had challenged the notice dated 11th July, 2018 and the final Order dated 25th July, 2018 issued under the

Mumbai Municipal Corporation Act. The said notice was issued on the ground that the appellant herein had illegally covered the open terrace without seeking permission of the Corporation.

3. It was the case of the appellant that as per the circular of MCGM, it is permissible to cover the open terrace, subject to the permission from MCGM. The learned Judge has refused to grant ad-interim relief since the appellant herein had not sought permission from the MCGM.

4. The learned Counsel for the appellant submits that subsequent to the dismissal of the said notice of motion, the appellant has by application dated 3rd September, 2018 sought regularization of the construction/ covering of the open terrace, and the said application is still pending. The learned Counsel for the appellant has produced on record copy of the said application.

5. Since the plaintiff has now sought regularization, it would be just and proper to protect the structure till the disposal of the notice of motion. Hence the appeal is disposed of as under:

i) Interim relief granted by this Court by Order dated 4th September, 2018 to continue till disposal of the notice of motion.

- ii) The Corporation to take a decision on the regularization application within a period of one month from the date of this Order.
- iii) The learned Judge, City Civil Court, Dindoshi, Mumbai to dispose of the notice of motion after taking into consideration the decision on the regularization application, within a period of three months from the date of this order.

(ANUJA PRABHUDESSAI, J.)