

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO. 222 OF 2019****WITH****CIVIL APPLICATION NO. 263 OF 2019****IN****APPEAL FROM ORDER NO. 222 OF 2019**

Pandurang Dagdu Gujar

.....Appellant.

Vs.

Municipal Corporation of
Greater Mumbai

.....Respondent.

Mr. K.D. Jha for the Appellant.

Smt. Madhuri More for the Respondent-MCGM.

CORAM : A. S. GADKARI, J.**DATE : 27th NOVEMBER, 2019.****P.C.:-**

By the present Appeal, the Appellant has impugned Order dated 7th November, 2015 passed by the learned Adhoc Judge, City Civil Court, Mumbai thereby refusing to grant ad-interim relief in Draft Notice of Motion in L.C. Suit No. 2620 of 2015.

2 The record indicates that, the Appellant had challenged notice dated 2nd April, 2014 bearing No. E/BF/V 351/4290/13-14 issued by the Respondent Corporation under Section 351 of the Mumbai Municipal Corporation Act (for short, '*the said Act*'), and Order dated 23rd October, 2015 bearing No. E/BF/V/351/FO/4290/13-14 thereby, directing the

Appellant to either pull down the unauthorized structure, more specifically mentioned in the said notice dated 2nd April, 2014 and Order dated 23rd October, 2015, in the alternative, the Corporation may pull it down as per the provisions of law. The Trial Court, by its impugned Order has refused to grant ad-interim relief in favour of the Appellant.

3 It is the contention of the Appellant that, the disputed structure i.e. the mezzanine floor, is in existence prior to 15th August, 1997 and therefore, the policy of the Corporation dated 8th August, 2005 for regularization of it, is applicable thereto.

4 The record indicates that, till date the Appellant has not applied for regularization of the said structure. The record is silent about the fact that, the Corporation or any other Competent Authority has granted permission to the Appellant to construct the said structure. In view thereof, balance of convenience does not lie in favour of the Appellant.

5 The Trial Court has rightly refused to grant ad-interim relief in favour of the Appellant.

I find no merits in Appeal and the same is accordingly dismissed.

In view of dismissal of Appeal itself, Civil Application No. 263 of 2019 does not survive, is also disposed off.

(A.S. GADKARI, J.)