

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

**APPEAL FROM ORDER NO.695 OF 2018
WITH
CIVIL APPLICATION NO.909 OF 2018
IN
APPEAL FROM ORDER NO.695 OF 2018**

Laxmikant Harichand Bhavsar ...Appellant

V/s.

Municipal Corporation of
Greater Bombay & Anr.

...Respondents

....

Shri Surel S. Shah, advocate for the appellant.

Mrs. More, advocate for the respondent No. 1/MCGM.

....

CORAM : M.S.KARNIK, J.

DATE : 13th JUNE, 2019

P.C. :

1. Pursuant to the notice issued by the Corporation under section 351 of the Mumbai Municipal Corporation Act, 1888, the appellant approached the City Civil Court seeking appropriate reliefs for setting aside the said notice.

2. The structure in question is a snack stall admeasuring 1.6 mtrs. x 3 mtrs. In the suit, the appellant filed draft Notice of Motion seeking protection of his suit structure during the

pendency of the suit. For the reasons mentioned in the order, the ad-interim relief was refused. Against this refusal of ad-interim relief during the pendency of the suit, the appellant approached this court by way of present Appeal. The Notice of Motion is pending.

3. By an order dtd.25/10/2018, this court was pleased to direct the parties to maintain the status quo till the next date. This order is continuing since 25/10/2018.

4. In this view of the matter, in my opinion, the following order will meet the ends of justice :-

“The Corporation is directed to file a detailed reply to the Notice of Motion, if not already filed, within a period of six weeks from today. The appellant to file a rejoinder if any within a period of one week from the date of filing of the reply. Within a period of six weeks from the time stipulated for filing rejoinder, the trial court to decide the Notice of Motion on its own merits. The interim order passed by this court on 25/10/2018 to continue till the disposal of the Notice of Motion. Needless to mention that the trial court will decide the Notice of

Motion on its own merits without being influenced by the order refusing grant of ad-interim relief”.

5. Appeal and Civil Application are disposed of with no order as to costs.

(M.S.KARNIK, J.)