

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

**APPEAL FROM ORDER NO.192 OF 2019
WITH
CIVIL APPLICATION NO.231 OF 2019**

Ramesh Shetty S/o. Sadashive Shetty ... Appellant

Versus

Trishul Ganga CHS Limited & Anr. ... Respondents

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Mr. Ashok M. Saraogi for the Appellant.

Mrs. Madhuri More for MCGM/Respondent.

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CORAM : M. S. KARNIK, J.

DATE : 18th JULY, 2019.

P. C.:

1. Heard learned counsel for the parties.
2. None for the respondent-Society though they are duly served by advocate's notice. The request is made by the appellant that due to heavy rain it is impossible for the appellant to stay in the suit premises because of the leakage in his flat. Affidavit of service on the Society is taken on record.
3. Learned counsel requests that he may be permitted to repair the roof by filling the cracks by using water proof material. He also requests that as per policy of the Corporation he may be

permitted to put up the weather shed of tarpaulin/tin sheets if permissible so that during the monsoon, the appellant can reside in the suit premises which is just below the terrace. Taking into consideration that the Society has not appeared despite notice, it would be in the interest of justice to pass the following order :-

ORDER

1. The appellant to apply to the Assistant Commissioner, 'M' West ward for permission to erect the temporary weather shed as per policy of the Corporation.
2. Learned counsel states that the application will be made by tomorrow i.e. on 19.7.2019. Considering the urgency, the competent authority to decide the application by 23.7.2019 and if necessary after hearing the appellant. As the Society has not bothered to appear despite service of notice, the competent authority would proceed to decide the application made by the appellant without insisting for any no objection certificate from the Society.
3. Needless to mention that if appellant is entitled to compensation from the Society for the cost incurred, the appellant is always at liberty to file appropriate proceedings.

4. With these directions, the Appeal is disposed of.
5. In view of the disposal of the Appeal, nothing survives for consideration in the Civil Application. The Civil Application is disposed of accordingly.
6. List the Appeal on 25.7.2019 under the caption 'for Compliance'.

(M. S. KARNIK, J.)