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

**APPEAL FROM ORDER (ST) NO.37220 OF 2018  
WITH  
CIVIL APPLICATION (ST) NO.37222 OF 2018  
IN  
APPEAL FROM ORDER (ST) NO.37220 OF 2018**

Shankarlal Kesrimal Jain ... Appellant.  
V/s.  
Mumbai Municipal Corporation  
of Greater Mumbai and anr ... Respondents

Mr. Bharat S. Kothari, for the Appellant.  
Mrs. Madhuri More, for respondent corporation.

**CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.**

**DATE : 8<sup>th</sup> JANUARY, 2019.**

**P.C. :**

- 1] Heard learned counsel for the appellant respondent.
- 2] As the trial Court refused to grant ad-interim relief to the appellant in the Notice of Motion (ST) No.16762 of 2018 in Suit No.3338 of 2018, by it's order dated 20<sup>th</sup> December, 2018, the appellant approached to this Court, seeking relief of interim injunction, restraining respondent Municipal Corporation, from demolishing the structure, till his Appeal pending before the Deputy Municipal Corporation for reconsidering the eligibility for permanent alternate accommodation is decided.

3] Admittedly, it is already declared that the appellant is not eligible for permanent alternate accommodation. In view thereof, merely because the appeal is pending, the structure which is prima facie coming in the way of public project of road widening, cannot be protected especially in the light of the fact that in such similar matters, this Court has vide its order dated 28<sup>th</sup> December, 2018, passed in Appeal from Order (St) No.36537 of 2018, rejected such relief to the other occupants who were also not found to be eligible for permanent alternate accommodation and it was done after considering the Government Resolution dated 16<sup>th</sup> May, 2015 as well as judgment of Division bench of this Court in in W.P.L. No.3394 of 2017 with W.P.L.3605 of 2017 (**Dr. Kesharsingh Ramkrishna Patil and ors -vs- State of Maharashtra and ors**) dated 17.9.2018.

4] Ultimately, if the appellant succeeds in proving his eligibility before the competent authority, naturally he will be entitled to get certain alternate accommodation. However, when the work of public cause that is road widening is undertaken, such work cannot be stopped by granting relief of ad-interim injunction. Learned counsel for the appellant submits that the measurement undertaken by the Municipal Corporation is not proper; that does not mean that the relief of ad-interim should be granted to stop public work. As stated above, if he succeeds in making claim that the measurement

was not properly undertaken and therefore, he is entitled for permanent alternate accommodation, depending upon the result of the appeal preferred by him, he will get such accommodation, but again it has to be repeated that he cannot stop the project of public importance .

5] The Appeal, therefore, being without merits stands dismissed.

6] At this stage, learned counsel for the appellant seeks time of 15 days to vacate the suit structure which is jewellery shop. In the interest of justice 8 days time is granted to the appellant to vacate the suit structure on his own voluntarily. For a period of 8 days stay is granted to this order.

7] In view of disposal of Appeal itself, pending Civil Application therein stand disposed off.

**[DR.SHALINI PHANSALKAR-JOSHI, J.]**