

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Appeal from Order (ST) No.11081/2019

Mr. Kamran Mustaq Shaikh ... Appellant

Vs.

Bombay Municipal Corporation & Anr. ... Respondents

Mr. S. K. Kumbhar for the Appellant

Ms. Oorja Dhond for the Municipal Corporation

CORAM : K.K.TATED, J.
DATED : APRIL, 12, 2019

P.C.

1 Pursuant to the praecipe filed by the learned counsel for the Appellant the matter is taken on production board.

2 By this Appeal from Order, the Appellant Plaintiff challenges the order dated 04.04.2019 passed by the Bombay City Civil Court declining to grant ad-interim relief in favour of the Appellant – Plaintiff.

3 The learned counsel for the Appellant submits that they have received notice u/s. 55 of the Maharashtra Regional and Town Planning Act, 1966 calling upon them to remove the alleged unauthorised construction, which reads thus:

**“MUNICIPAL CORPORATION OF GREATER
MUMBAI NOTICE UNDER SECTION 55 OF
MAHARASHTRA REGIONAL AND TOWN
PLANNING ACT, 1966**

**Notice No. No. MW / DO2MW / 152 / 55-MRTP-ACT/
MW62NO1 / 23/02/2019, Dated- 23/02/2019, Ref. No.
85861**

To,

Owners / Occupier

Residing at: - 7th Floor, Flora Avenue Building,

Near Sandu Garden, Near Joy Hospital,

Chembur (East), Mumbai- 400 071.

Sir/Madam,

Whereas the undersigned has been appointed as officer for the purpose of Section 152 of the Maharashtra Regional & Town Planning Act, 1966; (hereafter for brevity sake referred to as the said Act).

And, whereas the undersigned has been empowered to exercise and perform the powers and functions of the said authority.

And, whereas it has been reported to me that you have carried out development of temporary nature unauthorized, indicated in red colour in sketch overleaf and below mentioned schedule.

Without the permission required under aforesaid Act.

You are therefore, hereby called upon to remove the unauthorized development as indicated forthwith within 15 days (fifteen days) from the receipt of this notice by you.

Please note that on failure to comply with the aforesaid requisition, you will not only be liable for prosecution under the aforesaid Act but also the unauthorized work will be removed by this office without any further notice to you at your risk and cost.

SCHEDULE

“Unauthorized fixing of M S door, Adm. 2.00m X 1.25m at the frond lobby portion on 7th Floor, Near Staircase & blocking the entry to the user’s of the building and unauthorized fixing of MS Grill of the lobby floor of 7th Floor, adm. 1.35m X 1.00m at Pent House 701, 7th Floor, Flora Avenue Building, 10th Road, Near Sandu Garden, Near Joy Hospital, Chembur (East), Mumbai- 400 071”.

4 The learned counsel for the Appellant submits that the Appellant is ready and willing to place on record a sanctioned plan of the building showing that the construction carried out by the Appellant is not unauthorised one.

5 For that purpose, S.O. to 15.04.2019, for admission and interim relief.

(K.K.TATED, J.)