

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

**APPEAL FROM ORDER (ST.) NO.16119 OF 2019
WITH
CIVIL APPLICATION (ST.) NO.16120 OF 2019
IN
APPEAL FROM ORDER (ST.) NO.16119 OF 2019**

Shree Ganesh Mandir Through its
Trustee Shri Shivharsh R. Mishra ... Appellant
Versus
Assistant Commissioner and Anr. ... Respondents

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Mr. Akshay Kapadia I/b. Mr. Tushar R. Momaiyah for Appellant.
Mrs. Madhuri More for MCGM/Respondents.

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**CORAM : M. S. KARNIK, J.
DATE : 13th JUNE, 2019.**

P. C.:

1. The structure in question is Ganesh Matarani Temple.

It is the contention of the learned counsel for the appellant that the Corporation had shifted the structure to the present location on the earlier occasion which was coming in the way of road widening. He submitted that though he has duly filed reply to the notice dated 21.03.2017 the same was not taken into consideration by the Corporation.

2. The Trial Court has noted that the appellant did not file any reply to the notice dated 21.03.2017 and they are coming

before the Court after two years. Learned counsel for the appellant states that inadvertently the reply filed to the notice dated 21.03.2017 could not be brought on record. He submits that factually such reply was filed alongwith supporting documents.

3. Learned counsel for the Corporation tried to support the impugned order. However Learned counsel for respondents to take instructions on the contention of the counsel for the appellant that they had filed a reply to the notice which was received by the Corporation on 13.12.2018.

4. List the matter after two weeks. Till then the Corporation is restrained from taking any action against the structure.

5. Stand over to 26th June, 2019.

(M. S. KARNIK, J.)