

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
INTERIM APPLICATION NO.2 OF 2020  
IN  
WRIT PETITION NO.2273 OF 2018**

|                                                  |     |             |
|--------------------------------------------------|-----|-------------|
| Aishabai Abdul Rahim                             | ... | Applicant   |
| and                                              |     |             |
| Dilip Babulal Shah                               | ... | Petitioner  |
| versus                                           |     |             |
| Municipal Corporation of Gr. Mumbai and Ors. ... |     | Respondents |

Mr. Rakesh Agarwal, for Petitioner.

Mrs. Shilpa Gajre with Mrs. Rupali Adhate, Mrs. Yamuna Parekh, for MCGM.

Mr. Subhash Jha with Mr. Siddharth Jha i/by Law Global, for Applicant in IA 2 of 2020.

Mr. Kiran Dhas, Sub-Engineer, B&F, B Ward, present.

**CORAM: S.J. KATHAWALLA &  
R.I.CHAGLA, JJ.**

**DATE: 27th FEBRUARY, 2020**

**P.C.:**

1. The above Writ Petition was filed by the Petitioner for the following reliefs :

"(a) This Hon'ble Court be pleased to call for the Records of the Respondent Nos.1 to 3 authorities and after examine the legality and propriety of the various contentions raised by the Petitioner, including inaction on the part of the Respondent Nos.2 and 3, this Hon'ble Court be pleased to issue Writ of Mandamus or writ in the nature of mandamus directing the Respondent Nos.1 to 3 to visit the suit plot and take action to demolish the building which is in the process of construction on the suit plot by following due process of law including to demolish the various illegal constructions;

(b) pending hearing and final disposal of present petition, this Hon'ble Court be pleased to grant order of injunction restraining the Respondent Nos.4 to 6 from making further constructions on the suit plot;"

2. When the Advocates for the parties were heard in the above matter, the learned Advocate appearing for the Corporation informed the Court that the Corporation has already commenced action against the concerned parties. However, the concerned parties / Noticees have filed Suits before the City Civil Court and have taken out Notices of Motion and obtained urgent ad-interim reliefs from the Court, restraining the Corporation from taking coercive action/maintain status quo in respect of the subject property.

3. The Court was further informed that such ad-interim order now continues only in Notice of Motion No. 1917 of 2018 in Suit No.1316 of 2018 filed in City Civil Court, and the Notice of Motion will be taken up for final hearing.

4. On 17<sup>th</sup> January, 2020, this Court was informed that Notice of Motion No. 1917 of 2018 filed in Suit No. 1316 of 2018, is heard by the learned Single of the City Civil Court and is kept for orders on 18<sup>th</sup> January, 2020. In view thereof, this Court called for the copy of order passed by the City Civil Court. Upon receipt of the said order, we noted that the Notice of Motion filed by the Plaintiff is dismissed and a limited stay has been granted by the City Civil Court. We therefore in our order dated

26<sup>th</sup> February, 2020 recorded that in the event of the stay granted by the City Civil Court not being extended further, the Corporation shall forthwith proceed to demolish the unauthorized construction.

5. It appears that the original Plaintiff has filed the Appeal from Order impugning the Order passed by the learned Judge of the City Civil Court in the said Notice of Motion before the learned Single Judge of this Court. An Application is now made before us stating that we should clarify our order. We find that our order is absolutely clear and needs no clarification. The Interim Application taken out in the above Writ Petition, which is disposed off, is therefore dismissed.

**( R.I. CHAGLA, J. )**

**( S.J.KATHAWALLA, J.)**