

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO. 436 OF 2021
WITH
INTERIM APPLICATION NO. 3353 OF 2021**

Ashok Chandradev Shukla ... Appellant/Applicant
V/s.
The Municipal Corporation of Greater
Mumbai ... Respondent

Mr. Arif Anwar i/b. Mr. J. B. Singh for Appellant/Applicant.
Mr. Dharmesh Vyas a/w Smt.Madhuri More for Respondent-MCGM.

CORAM : A.S. GADKARI, J.
DATE : 29th NOVEMBER, 2021.

PC. :

1. By the present Appeal under Order 43 of Civil Procedure Code, 1908, the Appellant/Original plaintiff has impugned Order dated 6th March 2021 passed in Notice of Motion No. 602 of 2019 in L.C. Suit No. 253 of 2019 by the learned Ad-hoc Judge, City Civil Court, Borivali Division, Dindoshi, Mumbai, dismissing the said Notice of Motion.
2. Heard Mr.Anwar, learned Advocate for the Appellant and Mr.Vyas, learned Advocate for Respondent-MCGM.
3. It is an admitted fact on record that, the suit structure of the Appellant was and is thoroughly unauthorised and illegal construction. It is

the reason that, after issuing necessary notice under the provisions of the Mumbai Municipal Corporation Act, the suit structure was demolished on 28th April 2017 by the Corporation by following due procedure. The Appellant subsequently again erected suit structure without any lawful permission or sanction from the Corporation.

During the course of arguments, this Court repeatedly requested learned Advocate for the Appellant to show any permission granted by the Corporation to the Appellant to construct the said suit premises. However, he was unable to point out such permission granted by the Corporation or any Competent Authority in that behalf.

Despite the said fact, the Corporation has now again issued notice dated 23rd January 2019 under Section 313(1) of the Mumbai Municipal Corporation Act. It clearly appears that, the Corporation is following due process of law for removal of the fully unauthorized and illegal suit structure of the Appellant.

4. In view of the above, I find that the Trial Court has not committed any error either in law or on facts while passing the impugned Order.

5. Appeal being dehors of merits is accordingly dismissed *in limine*.

6. In view of dismissal of Appeal itself, Interim Application No.3353 of 2021 does not survive and is accordingly disposed off.

[A.S. GADKARI, J.]