

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****APPEAL FROM ORDER NO. 309 OF 2021
WITH
INTERIM APPLICATION NO. 2712 OF 2021**

Manoj Ompal Gagat ... Appellant
V/s.
The Municipal Corporation of Gr. Mumbai ... Respondent

Mr.N.B. Shukla i/b. Mr.B.S. Bhukla for Appellant.
Mrs.Madhuri More for Respondent-Corporation.

CORAM : A.S. GADKARI, J.
DATE : 5th October 2021.

PC. :

1. Heard learned counsel for both the parties.
2. The present Appeal impugns Order dated 24th September 2021, in Notice of Motion No.1457 of 2021 in L.C. Suit No. 1331 of 2021 passed by learned Addl. Judge, City Civil Court, Borivali Divn. Dindoshi, Mumbai, thereby dismissing the said Notice of Motion filed by the Appellant for seeking interim relief against Respondent-Corporation.
3. Admittedly there is no permission granted to the suit structure by the Respondent-Corporation and it has been illegally constructed by the Appellant.

4. Learned counsel for the Appellant contended that, the suit structure is situated in a slum declared by M.H.A.D.A.. He fairly answered that, S.R.A. Scheme is implemented at the place of suit structure in the year 1997 and the suit structure is in existence prior to 1990. It is thus clear that, in the year 1990 there was no slum rehabilitation scheme implemented or declared by the Competent Authority and the suit structure is constructed without lawful permission in that behalf.

For want of basic document i.e. permission to construct suit structure, it is to be safely presume that, the suit structure is fully a illegal structure.

5. The Trial Court after taking into consideration the necessary and relevant factors has rightly dismissed the said Notice of Motion for interim relief filed by the Appellant. There is no error in the impugned Order.

6. Appeal is accordingly dismissed.

7. In view of dismissal of Appeal, Interim Application No.2712 of 2021 does not survive and is accordingly disposed off.

[A.S. GADKARI, J.]