

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.267 OF 2022
ALONG WITH
INTERIM APPLICATION NO.1880 OF 2022

Global Educational Trust.] ... Appellant

Vs.

Municipal Corporation of Greater]
Mumbai.] ... Respondent

...

Mr. Ashok M. Saraogi for the appellant.

Mr. Om Suryavanshi for the respondent-MCGM.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 30TH MARCH, 2022.

P.C. :-

1. Heard the learned counsel for the appellant and the learned counsel for the Corporation.
2. The appeal raises a challenge to order dated 18/12/2021

passed by the City Civil Court at Mumbai, rejecting the notice of motion filed by the plaintiff in a suit challenging the notice issued to him under Section 354A of the BMC Act.

2. It is not in dispute that since the institution of the suit till the notice of motion is dismissed on 18/12/2021, there was an ad-interim relief in favour of the plaintiff as a result of which, the notice issued by the Corporation under Section 351 was not given effect to. Though the parties are at variance about the nature of the structure in respect of which, the notice was issued by the Corporation and this is reflected in the reply filed by the plaintiff, since the claim of the appellant is that it is a school building whereas, the Corporation alleges that the structure in the form of mezzanine floor is in a godown. The photographs at page No.31, which is part of the report of the Corporation itself indicates existence of a school/class room with a mezzanine floor being located over the ground floor.

3. In any case, the situation continued to be so since 2015. The notice of motion is rejected on 18/12/2021 and since the learned counsel for the appellant undertakes that he will file his evidence affidavit within a week from today, I deem it appropriate to issue a direction to the City Civil Court at Bombay to decide the L.C. Suit No.1315 of 2015 pending on it's file, within four months from today. Needless to say that the Corporation shall also render it's assistance in finally disposing off the suit. The position as of

today, shall be maintained till the final culmination of the suit.

4. The appeal is disposed off in the above terms.

5. In view of the disposal off the appeal, the interim application does not survive and is disposed off as such.

[SMT. BHARATI DANGRE, J.]