

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.26 OF 2022

Dhrunal Chhotalal Patel] ... Appellant

Vs.

Mumbai Municipal Corporation for]
Greater Mumbai & Anr.] ... Respondents

...

Mr. Yash Wardhan Tiwari for the appellant.

Mr. Om Suryavanshi for the respondent-MCGM.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 25TH MARCH, 2022.

P.C. :-

1. In response to the appeal, the Corporation has filed its affidavit through the Assistant Engineer, B. & F. Department. The affidavit dated 11/03/2022 contained the following statement.

“9. I say that after hearing both the sides Hon’ble City Civil Court had dismissed the Notice of Motion on 03.01.2022. I say that Office Staff has carried out demolition of unauthorized Notice Structure on 10.01.2022 and major portion of structure is demolished and made inhabitable. I say that wall corners supporting M.S. ‘I’ section angle and electric transformer room is left for demolition

*and while demolition was in progress, the Appellant moved the Hon'ble City Civil Court on 10.01.2022 for stay. I say that Hon'ble Court directed to submit the status on 11.01.2022. I say that Respondent file Affidavit stating Status Report of structure on 11.01.2022. I say that Appellant approached the Court on 13.01.2022. Here to annexed and marked the demolition order with photographs of demolition dated 10.01.2022 as **Exhibit "5" Colly.**"*

2. In the wake of the above statement, the notice of motion taken out in the suit which refuses any interim relief does not deserve any adjudication, since the restoration of the demolished structure, if found to be without the authority of law, can now be restored only depending upon the outcome of the suit.
3. In view of the above, the deponent of the affidavit shall visit the suit premises within three days from today and take photographs of the structure at site about it's existing position and prepare a report thereof and tender the same before the City Civil Court. Both the parties shall maintain status-quo as of today, till culmination of the suit. As far as remaining portion, which according to the affidavit, remains to be demolished, appropriate application to that effect be made to the City Civil Court.
4. The appeal is disposed off in the above terms.

[SMT. BHARATI DANGRE, J.]