

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.204 OF 2022
ALONG WITH
INTERIM APPLICATION NO.1354 OF 2022

Abdul Razak Pambara] ... Appellant

Vs.

The Municipal Corporation of Greater]
Mumbai & Anr.] ... Respondents

...

Mr. V. Thorat i/b Mr. Ashok R. Pande with Mr. Shobhit Shukla for
the appellant.

Mr. R.Y. Sirsikar for the respondents-MCGM.

...

CORAM : SMT. BHARATI DANGRE, J.

DATED : 30TH MARCH, 2022.

P.C. :-

1. By the present appeal, the appellant seeks to challenge refusal of ad-interim relief as prayed in the draft notice of motion.
2. I deed not delve deep into the controversy since on perusal

of the impugned order dated 01/03/2022, it is apparent that while refusing ad-interim relief, the learned Judge has adopted a perfunctory approach and rejected the ad-interim relief by making the following observations:

“On the basis of the similar notice previously issued, plaintiff has removed the unauthorized construction. Therefore, in my opinion, plaintiff has not filed on record sufficient material to grant ad-interim relief in his favour.”

3. It is informed by the parties that the notice of motion is scheduled today before the learned Judge for reply to be filed by the Corporation.

4. Reason is the soul of any order and particularly when an ad-interim relief is refused, the order must clearly reflect the reasons justifying its existence.

5. The case of the plaintiff/appellant is to the effect that there was amalgamation of the shops which was done on the previous occasion also and, therefore, when he seeks a declaration that there is no unauthorized structure which is coming up, which would empower the Corporation to issue the impugned notice, the learned Judge ought to have appreciated a *prima facie* case before refusing ad-interim relief and this should have been reflected in the order.

6. Since such an order cannot be sustained, I deem it expedient to direct the learned Judge to conclude the proceedings of hearing of the notice of motion, provided the Corporation files its reply, within one week from today. Upon such reply being filed, the City Civil Court, Mumbai shall dispose off the notice of motion, within four weeks thereafter.
7. During the pendency of the notice of motion, the parties shall maintain status quo.
8. The appeal from order is disposed off in the above terms.
9. In view of the disposal of the appeal, interim application does not survive and stands disposed off.

[SMT. BHARATI DANGRE, J.]