

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

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APPEAL FROM ORDER NO.535/2019
A/W
CIVIL APPLICATION NO.614/2019
IN
APPEAL FROM ORDER NO.535/2019

Santosh R. Talekar ... Appellants.
Vs.
MCGM ... Respondents.

.....
Mr. Asit Kedar Singh, for Appellant.
Mr. Om Suryavanshi for MCGM.

CORAM : PRITHVIRAJ K. CHAVAN, J.

DATED : 15th JULY, 2022.

P.C.

1. The trial Court had refused an ad-interim to the appellant by an impugned order on 9.3.2018 against which the appellant has preferred this appeal from order.
2. Learned Counsel for the appellant submits that the interim application is kept on 29.7.2022 and therefore, prays for directing the trial Court to decide the interim application.
3. Mr.Suryavanshi appearing for MCGM invites my attention to paragraph no.10 of Order dated 9.3.2018 which reads thus;

“10. The specific contention of the defendant is that defendant has no objection about the other premises occupied by plaintiff. However, after removal of the temple, plaintiff made

encroachment and started his business. The photographs do show that the temple which was on footpath was demolished by the Corporation. In the speaking order dated 22.1.2018, it has specifically mentioned that plaintiff made encroachment upon the open space of Sai Baba temple. Defendant/Corporation has considered the documents produced by the plaintiff. Therefore, it can not be said that opportunity was not given to the plaintiff. Plaintiff has not produced the documents to show that the suit premises wherein he is running the business is the same, in respect of which, the earlier owner has executed an affidavit and General Power of Attorney in favour of plaintiff.”

3 In view of the above, appeal from order stands disposed of with following directions:

- i) Parties shall appear before trial court on 29.7.2022.
- ii) Trial Court shall decided the interim application by giving opportunities to both sides within 2 weeks thereafter, without granting any adjournments.

4. Appeal from order stands disposed of.

5. Learned Counsel for the appellant prays for continuing the interim order. Prayer is refused in view of the statement made by the learned Counsel for the MCGM as well as what has been observed by the trial Court in paragraph 10 of the impugned order.

[PRITHVIRAJ K. CHAVAN, J.]

