

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO.524 OF 2015
A/W
CIVIL APPLICATION NO.664 OF 2015
IN
APPEAL FROM ORDER NO.524 OF 2015**

**Mrs.Pooja U. Aggarwal] ... Appellant.
Vs.
M.C.G.M. & Ors.] ... Respondents.**

....

Mr. Dinesh Tiwari a/w Mikhail Dey and Tanmay Karmarkar for the appellant.

Mr. Om Suryawanshi for MCGM.

....

CORAM : PRITHVIRAJ K.CHAVAN, J.

DATE : 7th JULY, 2022.

PC.:

1. A short question, which arises for consideration is whether, construction of the mezzanine floor in shop no.1 was authorized?
2. It is the contention of the learned Counsel for the appellant that pursuant to an Agreement dated 25.5.2015, area of shop no.1, is 175 Sq.ft. carpet and mezzanine floor admeasuring 87.5 Sq.ft. which was purchased from the earstwhile owner Mr.Chetan Mehta.

3. The respondent-Corporation has not yet supplied any information to the appellant, upon his application under Right to Information Act, in respect of copy of approved plan. This direction has already been issued by this Court on 22.2.2022

4. The trial Court, by an impugned order dated 26.3.2015, noted that the appellant had not established a prima facie case, balance of convenience as well as irreparable loss to her, *inter alia* protecting the disputed structure.

5. Interim protection is continued till date.

6. Appeal is of the year 2015. 7 years have been elapsed, therefore, there would be no point in keeping the appeal from order pending, it needs to be disposed of by issuing following directions:

- i) The parties shall appear before the trial Court, on 10.8.2022.
- ii) Respondent shall file written statement, if not already filed, within one week thereafter.
- iii) The trial Court may allow the respondent/defendant to file the written statement, as per the procedure of the Civil Procedure Code.
- iv) After filing the written statement, if any, the trial Court shall frame issues within one week.
- v) Parties shall adduce respective evidence before the trial Court thereafter without seeking unnecessary adjournments.
- vi) The trial Court shall decide and dispose of the suit, as expeditiously as possible within 6 months from receipt of this

order.

7. Appeal from order, stands disposed of, in the aforesaid terms.
8. In view of disposal of appeal from order, the application stands disposed of.
9. Interim protection shall continue to operate till disposal of the suit.
10. It is made clear that this Court has not expressed any opinion on the merits of the case.
11. All rights and contentions of the parties, are kept open.

(PRITHVIRAJ K.CHAVAN, J.)

