

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 466 OF 2022
WITH
INTERIM APPLICATION NO. 3030 OF 2022
IN
APPEAL FROM ORDER NO. 3030 of 2022

Robin Nelson Gonsalves .. Appellant

Versus

Municipal Corporation of Gr.Mumbai, .. Respondent
thru the Municipal Commissioner and
ors.

...

Mrs Jyoti Chavan, for the appellant/applicant.
Mr.Santosh Parad for respondent MCGM.

CORAM: BHARATI DANGRE, J.
DATED : 4th MAY, 2022

P.C:-

1 Heard learned counsel for the appellant and learned
counsel for the Corporation.

2 The Appeal is filed, being aggrieved by an order on
8/4/2022, granting ad-interim relief in favour of the appellant
who is plaintiff in L.C. Suit No.801/2022 but the relief being
restricted only to the ground floor structure of the suit premises.

3 Learned counsel Mrs.Jyoti Chavan appearing for the appellant would submit that the plaintiff's case is to the effect that the entire structure standing on the suit property, had received sanction and was assessed to tax. She thus submits that restricting the ad-interim relief only in respect of the ground floor without any justification and appreciating the documents placed on record, is an erroneous exercise of power by the City Civil Court.

4 Another development upon which she place reliance is the proposal filed for regularization of the said structure above ground floor, assuming that it was not legal and permissible and this proposal is now pending with the Building Department of the MCGM, seeking it's regularization along with the necessary fees.

5 Learned counsel for the MCGM state that he is not aware of any such proposal being forwarded.

 Learned counsel for the appellant has placed on record copy of the said proposal which has been preferred on 2/5/2022. Obviously, this was not brought to the notice of the City Civil Court when it granted the ad-interim relief.

 In the wake of the above development, since the Notice of Motion is already pending before the City Civil Court, and the appellant took out appropriation application/Chamber Summons for bringing the aforesaid development, the City Civil Court shall decide the Notice of Motion on or before 30/6/2021.

Till the Notice of Motion is decided, the Corporation shall not take any steps in respect of the notice structure, and shall also place its stand before the learned Judge about regularization of the aforesaid structure.

With the above direction, AO is disposed off.

In view of the disposal of AO, Interim Application No. 3030/2022 do not survive and is disposed off.

(SMT. BHARATI DANGRE, J.)