

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

**APPEAL FROM ORDER NO.505 OF 2022
WITH
INTERIM APPLICATION NO.3167 OF 2022
IN
APPEAL FROM ORDER NO.505 OF 2022**

Purjan Nandsingh Dhami ...Appellant
Versus
The Bombay Municipal Corporation of...Respondent
Greater Bombay.

.....

Mr. M. P. Mishra for Appellant.

Mr. R. Y. Sirsikar for Respondent (MCGM).

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 8th JUNE, 2022.

P.C.:-

1. With Consent the Appeal is heard finally at the stage of admission.
2. The Appellant, who is the Plaintiff in the L. C. Suit No.901 of 2022 has challenged the order dated 26th April 2022, whereby the learned Judge, City Civil Court at Bombay, Borivali Division, Dindoshi, Goregaon, Mumbai has rejected the prayer for ad-interim relief.

3. The Appellant claims to be in possession of Room No.3 situated at Plot No.303, Dwarkabai Chawl, Municipal Ward, Jawahar Nagar, Private Land No.16, S.V. Road, Goregaon (West), Mumbai-400062. The Respondent-MCGM issued notice dated 21st March 2022 under Section 351 of the Mumbai Municipal Corporation Act, alleging that the Appellant has carried out unauthorized construction in an open land. In reply to the said notice, the Appellant claimed that the said structure has been existing since long and that he had purchased the same vide Agreement for Sale dated 11th March 2016 from its owner Mrs.Meena S. Nadar. The Appellant had also annexed with the reply copies of electricity bills of BSES prior to 1994 which were in the name of Mr. R. Sudalai Kumar Nadar, the husband of the vendor Meena Nadar. The Appellant had also furnished other documents viz Water Bills, Photo pass Receipt, Ration Card, Aadhar card, Bank Pass Book, Voting Card, Gas Pass Book, etc. The said documents were not considered on the ground that the same pertain to another structure. The documents produced by the Appellant prima facie indicates that he is in possession of Room No.3 since long. Hence, the subject structure needs to be protected till the N.M. is decided on merits. At the stage, there is no prima facie material to indicate that the subject structure is a distinct structure.

4. Under the circumstances, the Appeal is allowed. The impugned order is set aside. Both parties are directed to maintain status quo pending disposal of the Notice of Motion. Appeal as well as Application stands disposed of in the above terms.

5. The Trial Court is requested to dispose of the Notice of Motion as expeditiously as possible in any event within a period of three months from the date of the order.

(SMT. ANUJA PRABHUDESSAI, J.)