

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

**APPEAL FROM ORDER NO. 512 OF 2022
WITH
INTERIM APPLICATION NO. 3199 OF 2022
IN
APPEAL FROM ORDER NO. 512 OF 2022**

Reyhaan Tower Co-operative Housing
Society Limited through Chairman / Secretary ...Appellant
V/s.

The Municipal Corporation of Greater
Mumbai through its Assistant Commissioner
K / West Ward ...Respondent

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Mr. Surel Shah a/w. Mr. Nishit Tanna i/b. Mr. Pratik P. Amin , for
the Appellant.

Mr. Dharmesh Vyas a/w. Mr. R. Y. Sirsikar, for the Respondent /
MCGM.

CORAM : C.V. BHADANG, J.

DATE : 25 JULY 2022

P.C.

. This appeal can be disposed of, on a short count. The
learned City Civil Court by impugned order dated 4 May 2022 in
Notice of Motion No.1466/2022 in L.C. Suit (L) No.1029/2022

has refused to grant ad-interim relief to the Appellant – Plaintiff.

2. The dispute is pertaining to the flats at Floor Nos.17 to 20 of the subject building in respect of which the Respondent – Corporation has issued a notice dated 11 March 2022 under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 ('MRTP Act', for short). By the said notice, the Corporation has called upon the Appellant -Society to take necessary steps in respect of the four floors which according to the Corporation are in the nature of unauthorised construction. After the ad-interim relief was refused, on the same day, an application Exh.6 was moved claiming that this Court by order dated 9 April 2021, 12 April 2021, 14 April 2021 and 26 April 2021 in Writ Petition No.6267/2021 has granted protection in respect of the suit premises. On the basis of this, the Appellant had requested for recalling earlier order passed, refusing ad-interim relief. The learned City Civil Court by yet another order dated 4 May 2022 (second order) has rejected the prayer for recall and the following operative order was passed.

ORDER

1. *A prayer to recall an order dated 04/05/2022 in Notice of Motion No.1466/2022 regarding ad-interim relief is rejected.*
2. *In view of the aforesaid reasons, three weeks time granted to plaintiff to bring further orders from Hon'ble Bombay High Court, by filing*

Appeal etc, till then, the defendants directed not to take coercive steps in respect of the suit property.

3. The Appellant is challenging the refusal of ad-interim relief / refusal to recall the order.

4. I have heard the learned counsel for the parties. Perused record.

5. A perusal of the record shows that this Court by order dated 9 April 2021 in Writ Petition (L) No.6267/2021 directed the Respondent not to take any coercive action qua the said property and the said order is continued from time to time.

6. In such circumstances, Mr. Shah, the learned counsel for the Appellant has submitted that hearing of the notice of motion may be expedited.

7. In the circumstances and considering the fact that the Division Bench of this Court has passed an order dated 9 April 2021 which has been continued and even the trial Court by the second order dated 4 May 2022 has directed the Respondent not to take any coercive steps in respect of the suit property, the present appeal is disposed of.

The learned City Civil Court shall hear and decide the notice of motion as expeditiously as possible and preferably within a period of three months from the receipt hereof.

The interim order as granted by the second order dated 4 May 2022 shall continue to operate during the pendency of the notice of motion.

The rival contentions of the parties, on merits, are left open.

There shall be no order as to costs.

Pending civil applications are also disposed of.

C.V. BHADANG, J.