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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 517 OF 2022
WITH
INTERIM APPLICATION NO. 3204 OF 2022

Mahesh Mohanlal Anam @ Thakkar

Appellant/
.. (Orig. Plaintiff)

Versus

The Municipal Corporation for Greater Mumbai,
and Anr.

Respondent /
.. (Orig. Defendants)

-
- Ms. Anita Dwivedi, Advocate for the Appellant
 - Mr. R.Y. Sirsikar, Advocate for MCGM
 - Mr. Sharan Jagtiani, Senior Advocate a/w. N. Sharma, Nilesh Gala and Mr. Aditya Pimple Advocates i/by Law Square for Defendant No.2
 - Mr. Devendra Pawar, Junior Engineer (B & F) 'T' Ward BMC present
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CORAM : MILIND N. JADHAV, J.

DATE : MAY 13, 2022.
(Vacation Court)

P.C.:

- 1.** Heard learned counsel appearing for the parties.
- 2.** The present Appeal From Order challenges the impugned order dated 09.05.2022 passed by the Trial court in draft Notice of Motion filed in Suit (St.) No.5283 of 2022 rejecting the Appellant's case for ad-interim relief on the ground that the Appellant could not file evidence to substantiate even *prima facie*, the legality and authenticity of the suit premises before the said Court. That apart, the

impugned order records that the subject notice dated 06.05.2022 issued under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 ('**MRTA Act**') to the Appellant in respect of the suit structure is justified as the Appellant has failed to place on record the permission issued by the Corporation and/or any plan sanctioned by the Corporation to confirm the legality of the suit structure and the Appellant is guilty of suppression of material facts. *Prima facie*, the order dated 09.05.2022 appears to be completely justified in the facts and circumstances of the present case placed before the learned Trial court.

3. Ms. Dwivedi, learned counsel appearing for the Appellant however submits that the Appellant be permitted to file regularization application in respect of the suit premises for seeking regularization of the unauthorized portion and the Corporation be directed to decide the same within a time bound program. The Appellant is permitted to file the regularization application in respect of the suit structure within a period of two weeks from today alongwith all supporting documents and evidence.

4. Mr. Jagtiani, learned Senior Advocate appearing for Respondent No.2 submits that the Respondent No.2 be permitted to appear before the Competent Authority dealing with the regularization

application that would be filed by the Appellant as the Respondent No.2 is the landlord of the suit premises. The request is justified.

5. If the regularization application is filed within a period of two weeks from today by the Appellant, the Corporation shall decide the same after according an opportunity of hearing to the Appellant and the Respondent No.2 and after hearing them pass a speaking order within three weeks thereafter. Until the regularization application is disposed of by the Corporation by a speaking order, no coercive steps as stated under the impugned notice be taken against the Appellant.

6. Appeal From order alongwith Interim Application stands disposed of in the above terms.

[MILIND N. JADHAV, J.]