

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

VAISHALI
ANIL
TIKAM

**APPEAL FROM ORDER No. 405 OF 2019
WITH
CIVIL APPLICATION No. 477 OF 2019
IN
APPEAL FROM ORDER No. 405 OF 2019**

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Smt. Pushpa Gajanan Thavai

**...Appellant
Applicant**

Vs.

**The Municipal Corporation of
Greater Mumbai**

...Respondent

*** * * ***

None for Appellant

Mr. R.Y. Sirsikar for Respondent -MCGM

Coram : Sandeep K. Shinde, J.

Dated: 21st APRIL, 2022.

P.C. :

1. Municipal Corporation of Greater Mumbai vide notice issued under Section 314 of the MMC Act, directed the Plaintiff to remove unauthorized structure. Whereafter, Plaintiff was heard by the Assistant Engineer (Maint), M/East Ward, who, by order dated 2nd July, 2015 held that Plaintiff failed to produce

permission for erecting stall, in the street and licence for operating snacks stall. Thus, directed Plaintiff to remove the structure within 48 hours. Thereafter, Plaintiff questioned the legality of the notice and order dated 2nd July, 2015. in the Long Cause Suit No. 2311/2014. Pending suit, Learned Trial Court declined to protect the notice structure, stall. As a result, notice of motion No. 3091 of 2014 was dismissed vide order dated 26th March, 2019. That order is challenged in this Appeal from Order.

2. None appears for the Appellant. Heard Mr. Sirsikar, learned counsel for the Corporation.

3. Plaintiff would claim that suit structure was in existence prior to 1st January, 1995. She would further claim since 'Census Receipt; dated 30th July, 2000 was issued in respect of suit structure, it qualifies for benefits under the bottleneck policy of the Corporation. I have perused the Census Receipt. The receipt has been issued to one Mr. Gajanan and not in the name of Plaintiff. Even otherwise, mere production of census receipt, itself was enough to claim benefits under the policy of the Corporation. Plaintiff did not produce such other documents to establish existence of the suit structure prior to January ,1962. In consideration of these facts, no interference is called for in the

impugned order. Appeal from order is dismissing including all applications therein.

(Sandeep K. Shinde, J.)