

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

APPEAL FROM ORDER NO. 615 OF 2022
WITH
INTERIM APPLICATION NO. 3752 OF 2022
IN
APPEAL FROM ORDER NO. 615 OF 2022

Sherbanoo Noor Mohammed Shaikh ..Applicant/Appellant
v/s.

The Municipal Corporation of Greater Mumbai ..Respondent

Mr. S. K. Dubey, for the Appellant.

Mr. R. Y. Sirsikar, for the Respondent-MCGM.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 22th JUNE, 2022.

P.C.

1. With Consent, matter is heard finally at the stage of admission.
2. The Appellant has filed this Appeal aggrieved by rejection of ad interim relief vide order dated 23rd May, 2022, passed by the learned Judge, City Civil Court, Dindoshi.
3. Heard, learned Counsel for the Appellant and learned Counsel for the Respondent. Perused the records and considered the submissions.

4. The Respondent had issued notice under Section 351 of the Mumbai Municipal Corporation Act, 1888 in respect of an unauthorised construction of ground plus one structure, more particularly described in the schedule the notice.

5. The Appellant claimed that the structure was existing since last 30 to 40 years. Not being satisfied by the said reply, speaking order came to be issued. The Appellant herein has placed on record electricity bills for the month of November, 1987 and March 1988. Records prima facie indicate that the structure is existing since long.

6. In my considered view, the structure needs to be preserved till the Notice of Motion is decided on merits.

7. Under the circumstances, the Appeal is allowed. Both parties are directed to maintain status quo in respect of the subject structure pending hearing and disposal of Motion No. 1586 of 2022 in Suit No. 1151 of 2022.

8. Learned Judge, City Civil Court, Dindoshi to endeavor to dispose

of the Notice of Motion as expeditiously as possible

9. Interim Application stands disposed of in view of disposal of Appeal.

(ANUJA PRABHUDESSAI, J.)