

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

**INTERIM APPLICATION NO. 59 OF 2021
IN
FIRST APPEAL NO. 24 OF 2021
WITH
FIRST APPEAL NO. 24 OF 2021**

Sanjay Anand Gavate and anr. Applicants
v/s.

Mumbai Municipal Corporation
and ors. Respondents

Mr. Satyan N. Vaishnav a/w. Nupur Mukherjee i/b.
M/s. N.N. Vaishnawa and Co. for the Applicants.
Mr. Santosh Parad for Respondent Nos.1 and 2 (MCGM).
Mr. A.K. Irani, Respondent No.3 in person.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 12th SEPTEMBER, 2022.

P. C. :-

. By this Application, the Applicants have sought to restrain the Respondent-Corporation and its Officers from acting upon notice dated 27/06/2012 issued under section 351 of the Act and order dated 26/07/2012 in respect of the shop/stall no.4.

2. Heard learned counsel for the Applicants, learned counsel for the Corporation and Respondent No.3 in person.

3. It is the case of the Corporation that the Applicants herein have constructed unauthorized stall in an open space of Pilla Lodge building with wooden member, M.S. Angles and G.I. Sheet roofing admeasuring about 4.00 mt x 1.10 mt and height 2.15 mt situated at stall No.4, 15-Pilla Lodge building, Shanker Seth Road, Bhaji Galli, Mumbai – 400007. The Corporation issued notice dated 27/06/2012 under section 351 of the MMC Act and after considering the documents produced by the Applicants, speaking order dated 26/07/2012 came to be passed directing the Applicants to remove/demolish the subject structure. Apprehending that the Corporation would demolish the suit structure, the Applicants herein filed suit before City Civil Court. The Applicants claim that the suit structure is existing since last several years and that he has been paying rent in respect of the same.

4. The records prima facie reveal that the suit structure is in existence since long. The interim relief was operating in favour of the Applicants till the dismissal of the suit and the same has been continued by this Court.

5. Considering the above facts and circumstances, the Interim Application is allowed in terms of prayer clause (b). The Applicants are also directed to place on record photographs of the subject structure

within a period of two weeks and is further directed not to carry out any construction or extension of the structure pending hearing of the Appeal.

6. Interim Application stands disposed of.
7. List the Appeal for hearing on **14/11/2022**.

PREETI
H JAYANI

(SMT. ANUJA PRABHUDESSAI, J.)

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