

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

***APPEAL FROM ORDER NO.271 OF 2021
WITH
INTERIM APPLICATION NO.2451 OF 2021***

Hafiz Munawar Shaikh
Vs
BMC

...Appellants

... Respondents

...

Mr. Shrinath K. Dubey for the Appellants.
Mr. R.Y.Sirsikar for MCGM.

CORAM : SANDEEP K. SHINDE J.
DATE : APRIL 26, 2022.

P.C. :

Pending Notice of Motion in Long Cause Suit (St) No.5452 of 2020, notice structure was partly demolished by the Corporation. Thereafter, on 10th November, 2020, Notice of Motion was dismissed. That order is challenged in this Appeal From Order under Order 43 Rule 1(r) of the Code of Civil Procedure, 1908.

2 Pending Appeal From Order, appellant has moved application seeking leave to re-construct the notice structure, which was demolished on 5th November, 2020.

3 In consideration of the facts of the case and in particular, that part of the notice structure was demolished on 5th November, 2020, I am not inclined to interfere in the impugned order. However, appellant/plaintiff may move the trial Court seeking leave to re-construct notice structure. If such an application is filed, the trial Court shall decide the same in accordance with law.

4 For the reasons stated above, Appeal From Order is dismissed with application therein.

(SANDEEP K. SHINDE, J.)