

Digitally
signed by
MOHAMMAD
NAJEEB
MOHAMMAD
QAYYUM
Date:
2022.03.07
19:00:55
+0530

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**Appeal from Order No. 365 / 2019
Alongwith
Civil Application (CAA) No. 439 / 2019
in
Appeal from Order No. 365 / 2019**

Dr. Jayesh Arjun Katira

... Appellant

Versus

The Assistant Engineer (B and F) T Ward

... Respondent

Mr. Samir A. Vaidya, Advocate for the Appellant.

Mr. Ravindra Sirsikar, Advocate for the MCGM/Respondent.

CORAM : SANDEEP K. SHINDE, J.

DATE : 7th MARCH, 2022.

P.C.

1. Plaintiff-noticee, was called upon by the Corporation to show cause within seven days, as to why notice unauthorized structure shall not be removed or pulled down. The notice was replied on 24th May, 2016. I have perused it. It does not refer to any building permission or approved plan, whereunder Plaintiff constructed suit structure. The Designated Officer in his final/speaking order

considered the reply and thereafter directed the Plaintiff to remove unauthorized construction. The order was challenged in the Writ Petition. It was disposed of by granting liberty to the Petitioner to approach at City Civil Court at Bombay; yet suit structure was protected for a period of four weeks. Plaintiff instituted the suit and sought interim protection to notice-structure. In absence of any building permission, the trial Court declined to stay implementation of the notice issued under Section 351 of the Mumbai Municipal Corporation Act. As it appears, pleadings do not refer to either building permission or that suit structure was/is tolerable. In that view of the matter, I do not see any reason to interfere with the order impugned in this appeal. Appeal is dismissed including Civil Application therein.

2. Appeal is disposed of.

(SANDEEP K. SHINDE, J.)