

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

Appeal from Order No. 707 / 2019
Alongwith
Civil Application (CAA) No. 842 / 2019
in
Appeal from Order No. 707 / 2019

Huseini Mohamedbhai Vasanwala and Anr. ... Appellants

Versus

The Municipal Corporation of Greater Mumbai ... Respondent

Mr. Pradep J. Thorat, Advocate for the Appellants.

Mr. Ravindra Sirsikar, Advocate for MCGM.

CORAM : SANDEEP K. SHINDE, J.

DATE : 17th FEBRUARY, 2022.

P.C.

Heard. Mr. Thorat, learned Counsel for the Appellants and Mr. Sirsikar, learned Counsel for the Corporation.

1. Pending suit impugning the notice under Section 351 of the Mumbai Municipal Corporation Act, (MMC for short), application

moved by the Appellants/Plaintiffs, seeking temporary injunction to restrain the Corporation from executing the notice, was rejected by the learned trial Court. Thus, this appeal under Order-43, Rule-1(r) read with Section 104 of the Code of Civil Procedure.

2. Mr. Thorat, learned Counsel has invited my attention to notice.

It reads as under;

“SCHEDULE

Unauthorized change of activity from garage to commercial shop in the name of M/s Vichare Express and Logistics Pvt. Ltd. at shop No.21, Pipewala Building, S.B.S. Road, Calaba, Mumbai-400 005 as shown in the sketch.”

3. Essentially, the notice was issued for unauthorized change of user/activity from garage to commercial shops.

4. Mr. Thorat, has placed on record a approval dated 24th February, 2021 granted by the Executive Engineer, Municipal Corporation of Greater Mumbai approving the change of user/activity in respect of which the notice was issued by the Corporation. The approval is taken on record and marked X-1 for identification.

5. In that view of the matter, the impugned notice dated 11th March, 2019 under Section 351 of MMC Act and Speaking Order dated 14th June, 2019 passed by the Designated Officer are quashed and set aside.

6. Appeal is allowed, in the aforesaid terms and disposed of alongwith all Civil Applications therein.

(SANDEEP K. SHINDE, J.)

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