

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 797 OF 2022

Mahendra Motilal Purohit

..Appellant

V/s.

The Municipal Corporation of  
Greater Mumbai

..Respondent

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Mr. Arshil Shah a/w Ms. Parisha Shah and Rasesh Shah for the  
Appellant.

Mr. R. Y. Sirsikar for the Respondent/MCGM.

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CORAM : C.V. BHADANG, J.

DATE : 11 AUGUST 2022

P.C.

. This Appeal from Order can be disposed of on short count.  
The Appellant/Plaintiff has challenged a speaking order and  
notice issued by the Respondent/Corporation under Section 351  
of the Mumbai Municipal Corporation Act, 1888.

2. The Appellant filed Notice of Motion No. 2214 of 2022  
which was decided on 09.06.2022 directing the Respondent/  
Corporation to pass a fresh speaking order. A perusal of the order  
dated 09.06.2022 shows that in the event the subsequent order is  
against the Appellant/Plaintiff, its operation was stayed for a  
period of two weeks from the date of its communication, in order

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to enable the Appellant to take recourse to appropriate legal remedy available to him. Subsequent to this a second speaking order came to be passed by the Corporation of which a copy was served on Appellant on 18.07.2022. The Petitioner filed a Chamber Summons No. 1126 of 2022 for amendment of the plaint along with Notice of Motion No. 2707 of 2022 challenging the second speaking order. A perusal of the order dated 02.08.2022 passed by the learned City Civil Court shows that time was granted to the Respondent/Corporation to file a reply till 04.08.2022 and it was directed that till then, the Respondent/Corporation shall not take any coercive action against the suit structure. On 04.08.2022, the Notice of Motion has been heard and the order was reserved till 18.08.2022, however, without extending the interim relief/protection. On account of this, the Appellant is before this Court.

3. I have heard the learned counsel for the parties. Normally, when interim relief is operating during the pendency of the Notice of Motion and the Notice of Motion is heard and order is reserved, it is expected that the interim relief which was operating would be continued till the passing of the order. It cannot be countenanced that the interim relief was operating during the pendency of the Notice of Motion, the same was heard and the order is reserved, without extending the interim relief.

4. In that view of the matter, the appeal is disposed of.

5. The interim relief which was operating during the pendency of the Notice of Motion as recorded in the order dated 02.08.2022 shall continue to operate till the disposal of the Notice of Motion.

It is made clear that this Court has not examined the rival contentions on merits and Notice of Motion shall be decided on its own merits without being influenced by the order granting interim relief.

**C.V. BHADANG, J.**