

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2345 OF 2019
IN
APPEAL FROM ORDER (ST) NO.28340 OF 2019

Vijay Naval Chauhan

.. Applicant

Versus

The Municipal Corporation of .. Respondents
Greater Mumbai & Anr.

...

Mr.M.V.Holmagi for the Appellant/Applicant.

Mr.Om Suryavanshi for the Respondent/MCGM.

...

CORAM: BHARATI DANGRE, J.

DATED : 22nd APRIL, 2022

P.C:-

1. The present appeal is being filed on refusal of an ad-interim relief by the City Civil Court on 12/06/2019. Pertinent to note that the notice was issued to the plaintiff under Section 351 of the M.M.C.Act on 07/11/2016 alleging unauthorised construction of a room with BM wall and AC sheet roof. The plaintiff specifically took a stand that the said structure is in existence prior to the datum line and he relied upon the rent receipts as well as payment for electricity bills in support of his case.

2. The ad-interim relief is refused by recording that there is no documentary evidence filed by the plaintiff to show that extension was made prior to 1961-1962 or with the permission of the MCGM.

3. The Notice of Motion was adjourned to 13/08/2019 for filing of reply by the MCGM. The learned counsel for the appellant makes a categorical statement that the structure is standing till date and it is not demolished.

In the wake of the aforesaid statement, the City Civil Court is directed to decide the Notice of Motion on its own merits, within a period of three months from today.

Till the disposal of the Notice of Motion, the MCGM shall not take any adverse action against the structure of the plaintiff.

4. With the aforesaid direction, the Appeal from Order stands disposed off alongwith its pending application.

(SMT. BHARATI DANGRE, J.)