

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.334 OF 2022
WITH
INTERIM APPLICATION NO.2340 OF 2022
IN
APPEAL FROM ORDER NO.334 OF 2022

...

Tilakdhari Sitiaprasad Yadav	Appellant/Applicant
V/S	
The Municipal Corporation of	
Greater Mumbai & Anr.	Respondents

...

Mr. Jagdish N. Jayale a/w Mr. Jayesh Jayale for the Appellant/Applicant.
Ms. Smita V. Tondwalkar for Respondents/MCGM.

...

CORAM: SANDEEP V. MARNE, J.
DATE : DECEMBER 05, 2023.

P.C.:

1 The challenge in the present Appeal is to the order dated 22 December 2020 passed by the City Civil Court rejecting the *ad interim* reliefs in Draft Notice of Motion tendered by the Appellant/Plaintiff in L.C. Suit No.1553 of 2020 instituted by Plaintiff/Appellant challenging the notice dated 26 November 2020 issued under the provisions of section 314 read with section 394 of the Mumbai Municipal Corporation Act, 1888 (**the MMC Act**). It is alleged in the notice that the suit structure is located on Koldongri Minor Nalla, Andheri (E). In reply submitted by

the Plaintiff, it is alleged that the location of structure is not on Koldongri Minor Nalla. It appears that the Respondent-Municipal Corporation has not passed any speaking order on the reply filed by the Plaintiff. Be that as it may, since substantial period of time elapsed from the date of refusal of ad-interim relief, it is appropriate that the City Civil Court decides the Notice of Motion finally rather than determining correctness of the impugned order dated 22 December 2020 at such distant date.

2 Accordingly Appeal is disposed of by requesting the City Civil Court to decide the Notice of Motion filed by the Plaintiff seeking temporary injunction in an expeditious manner, preferably within a period of two months from today. All contentions of the parties on merits are kept open. Needless to observe that the City Civil Court shall not be influenced by any of the observations made in the order while rejecting *the ad-interim* relief.

3 With the above directions, the Appeal is disposed of.

4 In view of disposal of the Appeal, nothing survives in the Interim Application and the same is disposed of accordingly.

(SANDEEP V. MARNE, J.)