

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.300 OF 2023
WITH
INTERIM APPLICATION NO.3783 OF 2023**

Gurindersingh Ajaibsingh Lohat ... Appellant
versus
The Municipal Corporation of Greater Mumbai ... Respondent

Mr. Kushal Amin i/by Mr. Gurubala Birajdar for Appellant.

Mrs. Smita Tondwalkar, for MCGM.

Mr. P.R.Pednekar, Asstt. Engg (B&F) M/West with Mr. P.D.Shingare, Jr. Engg. (B),
M/West Ward present.

CORAM: N.J.JAMADAR, J.

DATE : 26 APRIL 2023

P.C.

1. Heard the learned Counsel for the parties.
2. This appeal is directed against an order dated 30 March 2023 passed by the learned Ad-Hoc Judge, City Civil Court, Greater Mumbai, in an unregistered Notice of Motion in Suit (St) No.3755 of 2023 declining to grant ad-interim relief. By the said Notice of Motion, the Appellant-Plaintiff sought to restrain the Respondent-Defendant Corporation from acting upon the Notice issued under Section 354A of the Mumbai Municipal Corporation Act, 1888 in respect of the unauthorized construction work being carried out at Barrack No.18, Room No.210, Chembur Colony, Chembur, Mumbai.
3. When the matter was listed before this Court on 19 April 2023, a

statement was made on behalf of the Municipal Corporation that the notice structure has already been demolished. Thereupon, the Respondent – Municipal Corporation was directed to file an Affidavit along with the documents to show that the notice structure has been demolished.

4. Today, an Affidavit is tendered on behalf of the Municipal Corporation. It records that the notice structure was demolished on 18 April 2023. The photographs evidencing the demolition of the notice structure are annexed to the Affidavit.

5. The learned Counsel for the Appellant-Plaintiff would submit that the notice structure has not been completely demolished. An additional Affidavit came to be filed on behalf of the Appellant asserting that the Municipal Corporation has not completely demolished the notice structure. Copies of the photographs purportedly taken on 19 April 2023 have been annexed to the Affidavit to show that the Municipal Corporation has not completely demolished the notice structure.

6. Since the Municipal Corporation has placed material on record to demonstrate that action has been taken against the notice structure and even photographs filed on behalf of the Appellant do show that indeed action has been taken, there is no propriety in entertaining the Appeal against an order rejecting the ad-interim relief. It would be open for the Appellant to seek appropriate reliefs before the trial court by amending the plaint, if so advised.

7. With the aforesaid liberty, the Appeal stands disposed.
8. In view of the disposal of the Appeal, the Interim Application does not survive and stands disposed.

(N.J.JAMADAR, J.)