

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO. 358 OF 2023
WITH
INTERIM APPLICATION NO. 4384 OF 2023**

Gunwant Ravji Shah ...Appellant

Versus

Municipal Corporation of Greater Mumbai ...Respondent

**WITH
APPEAL FROM ORDER NO. 360 OF 2023
WITH
INTERIM APPLICATION NO. 4386 OF 2023**

Deepak V. Chhadwa ...Appellant

Versus

Municipal Corporation of Greater Mumbai ...Respondent

Ms. Aditi Naikare, a/w Vedanshi Shah, i/b Bipin Joshi, for the
Appellant.

Ms. Smita Tondwalkar, for the Respondent – MCGM.

CORAM: N. J. JAMADAR, J.

DATED : 21st JUNE, 2023

Oral Order:-

1. Heard the learned Counsel for the parties.
2. The challenge in these appeals is to an order dated 30th March, 2023 passed by the learned Ad-hoc Judge, City Civil Court, Mumbai, whereby Notice of Motion taken by the appellants – plaintiffs assailing the legality and validity of the

notice under Section 55 of the Maharashtra Regional and Town Planning Act, 1966 (“the Act, 1966”) came to be dismissed.

3. By the said notice the appellants – plaintiffs were called upon to remove the unauthorised temporary structure which is at the ground floor of the premises situated at Gangawadi, Ghatkopar (W).

4. The learned Counsel for the appellants submits that the appellants had approached the City Civil Court with a case that the structures were capable of regularization under the provisions of the Maharashtra Town Planning (Compounded Structure) Rules, 2017 issued in pursuance of the provisions contained in Section 52A of the Act, 1966.

5. The learned Counsel submitted that the appellants are willing to seek regularization of the alleged unauthorized structures by making appropriate application to the Municipal Corporation and, in the meanwhile, ad-interim protection be continued.

6. The learned Counsel for the MCGM resists the submissions on behalf of the appellants. It was submitted that the suit has been instituted in the year 2017 and if the plaintiffs *bona fide* intended to seek regularization they should have approached the planning authority in the year 2017 itself.

7. The question as to whether the allegedly unauthorized structures are capable of regularization under the Maharashtra Town Planning (Compounded Structures) Rule, 2017 is required to be determined by the Planning Authority. In the event, the Planning Authority comes to the conclusion that the allegedly unauthorized structures are capable of regularization, appropriate orders can be passed in accordance with the said Rules. The prayer seeking an opportunity to seek regularization of the allegedly unauthorized structure therefore cannot be thrown overboard, at this stage.

8. In view of the above, the appeals stand disposed with liberty to the appellants – plaintiffs to make an application for regularization to the Planning Authority within a period of four weeks from today.

9. The Planning Authority shall decide the same within a period of three weeks of the receipt of the said application.

10. The interim protection granted by this Court shall continue to operate for the period of eight weeks from today.

11. Appeals stand disposed.

12. In view of disposal of the appeals, interim applications do not survive and stand disposed.

[N. J. JAMADAR, J.]