

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.573 OF 2022**

Nagesh Samar Bahadur Singh ... Appellant
versus
The Municipal Corporation of Greater
Mumbai ... Respondent

WITH
INTERIM APPLICATION NO.3368 OF 2022
WITH
INTERIM APPLICATION NO.9946 OF 2022
IN
APPEAL FROM ORDER NO.573 OF 2022

Mulraj Khatau & Sons Pvt. Ltd. ... Applicant
and
Nagesh Samar Bahadur Singh ... Appellant
versus
The Municipal Corporation of Greater
Mumbai ... Respondent

Mrs. Anjali N. Helekar with Ms. Anu C. Maladharan for Appellant.
Mr. A.Y.Sakhare, Sr. Advocate with Ms. Smita Tondwalkar for MCGM.
Mr. Pradeep Thorat i/by Ms. Aditi Naikare for Intervener in IA 9946 of 2022

CORAM: N.J.JAMADAR, J.

DATE : 8 MARCH 2023

P.C.

1. Heard the learned Counsel for the parties.
2. Mrs. Helekar, the learned Counsel for the Appellant, invited the attention of the Court to an order dated 20 May 2022 passed by the learned Judge, City Civil Court, staying the effect of the demolition notice issued under Section 351 of the

Mumbai Municipal Corporation Act, 1888 for a period of two weeks after passing an order dated 20 May 2022 declining to grant ad-interim relief. The said interim protection has continued till date by orders passed by this Court.

3. The learned Counsel for the Appellant submits that the structure which was demolished by the Municipal Corporation earlier was distinct from the structure which is now sought to be demolished. The Trial Court has mis-construed the said aspect.

4. Mrs. Helekar endeavoured to persuade the Court to look into the material which was not before the learned Judge, City Civil Court, while passing an order dated 20 May 2022.

4. In view of the aforesaid nature of the core controversy, it would be appropriate if the Notice of Motion itself is decided by the learned Judge, City Civil Court expeditiously.

5. The learned Judge, City Civil Court, is requested to make an endeavour to decide the Notice of Motion within a period of six weeks.

6. The Appellant/Plaintiff shall file an additional Affidavit along with the documents on which the Appellant desires to rely upon within a period of one week from today.

7. The Respondent and Applicant/Intervener in Chamber Summons No.52 of 2016 may file an Affidavit to deal with the further Affidavit to be filed by the

Appellant within one week thereafter.

8. Interim Protection shall continue to operate for a period of six weeks.

9. In the event, the Notice of Motion could not be decided within a period of six weeks, the learned Judge shall be at liberty to extend the interim protection depending upon the conduct and co-operation of the parties for expeditious disposal of the Notice of Motion.

10. With the aforesaid order, the Appeal from Order stands disposed.

11. In view of the disposal of the Appeal, Interim Applications stand disposed.

(N.J.JAMADAR, J.)