

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.379 OF 2023
WITH
INTERIM APPLICATION NO.4603 OF 2023**

Jagbir Singh Mutneja and Anr. ... Appellants
versus
Municipal Corporation of Greater Mumbai
and Anr. ... Respondent

Mr. Rajesh P. Khobragade with Ms. Gayatri H. Nayak, Mr. Raj S. Gupta, Mr. Vinay Khobragade for Appellants
Mrs. Smita Tondwalkar, for MCGM.
Mr. Rajesh Rathod, Asstt. Engineer, B&F, G/North Ward, present.

CORAM: N.J.JAMADAR, J.

DATE : 13 JUNE 2023

P.C.

1. This appeal is directed against the order dated 24 April 2023 passed by the learned Judge, City Civil Court, Greater Mumbai in Notice of Motion No.1379 of 2023 in L.C.Suit No.884 of 2023, whereby the prayer for ad-interim relief in the nature of staying the execution, operation and implementation of the Stop Work Notice under Section 354A of the Mumbai Municipal Corporation Act, 1888 came to be rejected.

3. By the said Notice dated 28 January 2023, the Defendant No.1 – Municipal Corporation alleged that the Plaintiffs were carrying out unauthorized development at the suit property as described in the Schedule appended thereto.

4. The learned Counsel for the Appellants submits that the alleged unauthorized development is in effect a tentable repair and does not amount to development without permission of the land owner. Nonetheless, the Plaintiffs desire to make an application to the Municipal Corporation for grant of necessary permission to carry out proposed repairs and/or development.

5. In view of the aforesaid statement, and since the learned Judge, City Civil Court, by an order dated 24 April 2023 has restrained the Municipal Corporation from taking coercive action on the basis of the Notice dated 28 January 2023 and the Speaking orders, it may be expedient to grant reasonable time to the Plaintiffs to make appropriate application for grant of permission and/or regularization of the development to the Municipal Corporation, and restrain the Municipal Corporation from acting upon the Notice dated 24 April 2023 and the Speaking Orders.

6. The Appeal, thus, stands disposed by granting Appellants/Plaintiffs four weeks time to make an application for grant of permission for repairs and/or regularization of the development at the suit premises. The Municipal Corporation shall take a decision on the Application of the Appellants/Plaintiffs within a period of four weeks thereafter. During the said period of eight weeks, the Municipal Corporation shall not take any coercive action on the basis of the Notice dated 24 April 2023 issued under Section 354A and the consequent Speaking Order. Till the decision on the regularization application, the Appellants-Plaintiffs shall also maintain

status quo as of today as regards the notice structure.

7. In view of the disposal of the Appeal, Interim Application No.4603 of 2023 also stands disposed. No costs.

(N.J.JAMADAR, J.)