

Santosh

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

APPEAL FROM ORDER NO. 287 OF 2023

SANTOSH
SUBHASH
KULKARNI

Digitally signed by
SANTOSH SUBHASH
KULKARNI
Date: 2023.06.06
15:08:23 +0530

Kamlesh Mohanlal Yadav ...Appellant

Versus

Municipal Corporation for Greater Mumbai ...Respondent

WITH

INTERIM APPLICATION NO. 3676 OF 2023

Mr. R. Y.Sippy, a/w Mr. C. M. Lokesh, for the Appellant.

Ms. Smita Tondwalkar, for the Respondent/MCGM.

CORAM: N. J. JAMADAR, J.

DATED : 19th APRIL, 2023

PC:-

1. Heard the learned Counsel for the parties.
2. The challenge in this appeal is to an order dated 8th July, 2022 passed by the Judge, City Civil Court in Notice of Motion in Suit (St.) No.6448 of 2022, whereby the learned Judge was persuaded to reject the prayer for ad-interim relief in terms of prayer Clause (a) of draft Notice of Motion. At that stage, the Court had considered the limited affidavit-in-reply filed on behalf of the Municipal Corporation of Greater Mumbai ("MCGM").
3. Without delving into the legality, propriety and correctness of the impugned order, which was passed at an ad-interim stage

considering the time which has elapsed since the passing of the impugned order, there is no propriety in entertaining the appeal against the ad-interim order at this stage. It is appropriate that the Notice of Motion is decided by the City Civil Court expeditiously.

4. In view of the above, the respondent – MCGM may file an additional affidavit-in-reply, if desired to, within a period three weeks from today.

5. Rejoinder, if any, be filed by the plaintiff on or before 12th June, 2023.

6. The learned Judge, City Civil Court, is requested to make an endeavour to decide the Notice of Motion as expeditiously as possible and preferably within a period of three months from 12th June, 2023.

7. The appeal stands disposed.

8. It is clarified that this Court has not entered into the merits of the matter and all contentions of all the parties are kept open for consideration.

9. In view of disposal of the appeal, interim application does not survive and stands disposed.

[N. J. JAMADAR, J.]