

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 800 OF 2023
WITH
INTERIM APPLICATION NO.15683 OF 2023

V. Selvanayagam and Anr.

...Appellants

Versus

The State of Maharashtra and Ors.

...Respondents

...

Mr. Pradeep J. Thorat i/by Mr. Bholaprasad S. Shukla, for Appellants.

Mr. R. Y. Sirsikar, for Respondent - MCGM.

...

CORAM : SANDEEP V. MARNE, J.

DATE : SEPTEMBER 27, 2023.

P.C.:

1. By this Appeal, Appellants challenge order dated 11 September 2023 passed by the City Civil Court refusing to grant ad-interim relief in Notice of Motion filed seeking temporary injunction to restrain Defendant-Municipal Corporation from taking action in respect of suit structure without following due process of law. The suit is filed by expressing an apprehension that a Junior Engineer of Municipal Corporation paid a visit to the suit premises on 24 August 2023 and threatened to demolish the same without issuing any notice.

2. The Municipal Corporation is bound to follow the due process of law and to issue Notice as provided under the provisions of Mumbai Municipal Corporation Act, 1808 or Maharashtra Regional and Town Planning Act, 1966 before taking action in respect of suit structure. If any action is taken without following the due process of law the Municipal Corporation will have to either reconstruct the structure or pay compensation as per judgment of the Apex Court in *Municipal Corporation of Greater Mumbai & Ors Vs. Sunbeam High Tech Developers* (2019) 20 SCC 981. Municipal Corporation is thus bound to issue Notice before taking any action for demolition. Therefore, no ad-interim injunction could be granted on a mere apprehension and the City Civil Court has rightly refused ad-interim relief. It is therefore not necessary to entertain this Appeal. The Appeal is accordingly disposed of.

3. In view of disposal of Appeal, Interim Application does not survive and stands disposed of.

(SANDEEP V. MARNE, J.)