

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.939 OF 2023
WITH
INTERIM APPLICATION NO.17300 OF 2023
IN
APPEAL FROM ORDER NO.939 OF 2023

Rajesh Kamlaksh Bhatt

: Appellant/Applicant
(Orig. Plaintiff)

Vs.

Mumbai Metropolitan Region
Development Authority

: Respondent (Orig. Defendant)

Mr. Janardan S Yadav for the Appellant/Applicant.

None for the Respondent.

CORAM : ARIF S. DOCTOR. J.

DATE : 15th NOVEMBER, 2023.
[VACATION COURT]

P.C. :

1. The present Interim Application has been filed seeking ad-interim orders whereby the Appellant/Applicant has sought the following reliefs :-

(a) *that pending the hearing and final disposal of the Appeal, this Hon'ble Court may be issue a temporary order of injunction against the Respondent, their servants, agents, officers and all*

*persons claiming by through or under them from in any manner demolishing the suit premises, viz. structure bearing no. PX-4-1/2C, admeasuring 24 ft. * 70 ft. made of Patra Sheet Wall and Patra Sheet Roof, situated at CTS no.46+50 to 56+58+59/14B, Opp. Asmi Complex, Junction of Mrunal Tai Gore Bridge, Goregaon (West), Mumbai 400062, in pursuance of notice dated 06-11-2023 issued u/s. 55 of the MRTP Act by the Respondent in respect of the suit premises;*

- (b) that pending the hearing and final disposal of the Appeal, this Hon'ble Court may be pleased to direct the Respondent, their servants, agents, officers and all persons claiming by through or under them to consider the reply dated 08-11-2023 filed by the Applicant and pass reasoned order thereon and further restrain the Respondents from executing and/or enforcing the notice dated 06-11-2023 issued u/s. 55 of the MRTP Act by the Respondent in respect of the suit premises viz. structure bearing no. PX-4-1/2C, admeasuring 24 Ft. * 70 ft. made of Patra Sheet Wall and Patra Sheet Roof, situated at CTS no.46+50 to 56+58+59/14B, Opp. Asmi Complex, Junction of Mrunal Tai Gore Bridge Goregaon (West) Mumbai – 400062, till the passing of the said reasoned order and in case the order is adverse to the Applicant, the Respondents may be further restrained from executing the said notice and order for a period of 2 weeks from the communication of the said order."*

2. Mr. Yadav, learned counsel appearing on behalf of the Appellant/Applicant invites my attention to the Impugned Order which is dated 10th November 2023 and submits that it is the apprehension of the Applicant/Appellant that the structures in question shall be demolished without affording the Appellant/Applicant any opportunity of hearing. He submits that a copy of today's application has been served upon the Respondent. He undertakes to file an Affidavit of Service to that effect within one week from

today. He further submits that the Appellant/Applicant had infact filed his reply to the notice, despite which no order has yet been passed.

3. I have heard learned counsel for the Appellant/Applicant and I find that the Application is in sense entirely premature since (a) the Impugned Order dated 10th November 2023 has granted a period of 15 days which expires today and; (b) I find that the order in terms makes a reference to an order dated 8th November 2023 passed by the Division Bench of this Court which records as follows :-

- "1. Mentioned. Not on board. Taken on board.*
- 2. Heard. The Petition challenges a notice dated 31st October 2023 issued by the Pune Metropolitan Region Development Authority ("PMRDA") under Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966 ("the MRTP Act") ordering a demolition of the Petitioner's farmhouse structure at Village Kurvande, District Mawal, Pune.*
- 3. Mr Singh, Learned Senior Counsel for the Petitioner, points out that the structure has been in existence since 1996. Whether or not there are sufficient permissions will have to be examined. We do not see the urgency in removing such a structure. Until the next date there will be an ad-interim injunction in terms of prayer clause (b) of the Petition. This is on a without prejudice and no equity basis and subject to further orders in the Writ Petition itself.*
- 4. As a general directive, we would request all Planning and Local Authorities to stay their hands on demolitions during the Diwali period and certainly until 20th/21st November 2023. There are intervening public holidays between 12th November 2023 (Diwali) and 15th November 2023 (Bhaubeej).*

5. *List the present matter on 1st December 2023."*

4. Be that as it may, in the event the Respondent is to take or require the Appellant to take any further steps pursuant to the Impugned Order, the Respondent shall give the Appellant/Applicant 48 hours notice.

5. In view of above directions, nothing further survives for consideration in the present Appeal from Order and the same is accordingly disposed of.

6. In view of disposal of the Appeal from Order, Interim Application No.17300 of 2023 does not survive and the same is accordingly disposed of.

(ARIF S. DOCTOR, J.)