

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Appeal from Order No.129 of 2024

a/w

Interim Application No.1545 of 2024

in

Appeal from Order No.129 of 2024

Mohammad Salim Shafi Khan ... Appellant.

Vs.

MCGM

... Respondents.

Mr Akshay Kapadia for appellant.
Mr RY Sirsikar for respondent/BMC.

Coram: R. N. Laddha, J.
Date : 14 February 2024.

P.C. :-

This appeal is listed today on account of a praceipe moved by the learned Counsel for the appellant on the ground that the respondent/corporation sought to take action of demolition of the suit premises. Accordingly, as per request of the learned Counsel for the appellant and in view of proposed demolition as per notice the appeal is taken up for

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hearing.

2. Mr AR Kapadia learned Counsel for the appellant submits that the appellant received notice from respondent/corporation u/s 351 of the Mumbai Municipal Corporation Act. In response, the appellant replied this notice but the corporation did not consider it nor considered the documents in their proper perspective.

3. Mr RY Sirsikar, learned Counsel for the respondent/corporation supports the line of reasoning adopted by the learned trial Court.

4. Present appeal is filed challenging the order dated 17.01.2024 refusing *ad-interim* relief to appellant/plaintiff in Notice of Motion No.284 of 2024 in LC Suit No.218 of 2024. Considering the nature of dispute involved in the present appeal, instead of determining correctness of the impugned order, it would be appropriate to direct the learned trial Court to consider and decide the notice of motion finally. The learned trial Court is requested to expedite the hearing of the notice of motion and to dispose of the same on its own merits in accordance with the law preferably within a period of six weeks from the receipt of the order.

5. The learned trial Judge shall not grant any adjournment

to the parties unless absolutely necessary. Parties to appear before the trial Court on 22.02.2024 and obtain necessary directions from the Court. Till disposal of notice of motion, the parties to maintain the *status-quo*. The instant appeal stands disposed of accordingly. Pending application also stands disposed of.

6. It goes without saying that if necessary the appellant is free to seek legal redress for his grievances if the occasion so arises. It is made clear that this Court has not examined the merits of the case and the trial Court shall pass an order on the Notice of Motion on its own merits in accordance with the law.

[R. N. Laddha, J.]