

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Appeal from Order No.226 of 2024

a/w

Interim Application No.6717 of 2024

in

Appeal from Order No.226 of 2024

Mr Indradev Ramdaras Chauhan Appellant.

Vs.

MMRDA Respondent.

Mr Ashok Mishra i/by Narendra Kumar Singh for appellant.

Mr Kuldeep Patil with Nikhil Hire for respondent-MMRDA.

Coram : R. N. Laddha, J.

Date : 14 March 2024.

P.C. :

The challenge in this appeal is to the order dated 15 February 2024 passed by the learned Judge, City Civil Court, Mumbai, in Notice of Motion No.717 of 2024, along with Notice of Motion No.2000 of 2023 in LC Suit No.1300 of 2023.

2. Heard learned Counsel for the appellant.

3. The learned Counsel for the appellant has not disputed the construction of the extended portion of the window as contended

by the defendant. However, he submits that he has already submitted a letter dated 9 February 2021 about the construction he intends to carry out. The society's secretary who filed the complaint for extension of construction work of the suit premises also had illegal construction of two shops on the ground floor of the same society. He further made a grievance that the members of the society filed various false complaints against the appellant with BMC, SRA, MMRDA and the local police station.

4. The defendant has included in the record the photographs and a complaint from Ganga Cooperative Housing Society Ltd regarding the appellant's unauthorised construction. Furthermore, an inspection report by the defendant's officials indicates that the MMRDA (SRA Cell) was consulted regarding the construction's approval. In response, the Dy.Planner from SRA Cell (MMRDA) clarified that no approval had been granted for the extension work and requested appropriate action against the unauthorised construction. Subsequently, the defendant issued a notice to the appellant, urging him to demolish the extended unauthorised construction. Based on the documents placed on record, it appears *prima facie* that the appellant/plaintiff engaged in illegal construction, extending the window by 4 feet. Admittedly, the appellant has not provided documentary evidence of obtaining permission for the construction. According to the defendant, as can

be seen from the record, this construction is not only unlawful but poses a significant risk to the structural stability of the building. Additionally, there have been reports of leakage and water seepage from the appellant's room into the electric meter room on the ground floor, resulting from damage caused by the appellant's alleged unauthorised construction.

5. Given the above, no fault can be found with the impugned order. As such, the present appeal from order stands dismissed.

6. As a sequel, the pending interim application is also disposed of.

[**R. N. Laddha, J.**]