

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

Appeal from Order No.239 of 2024

a/w

Interim Application No.6885 of 2024

in

Appeal from Order No.239 of 2024

Mohammed @ Sahajada Salim

Mohammed Abdul Aziz Shaikh Appellant.

Vs.

MCGM & Anr. Respondents.

Mr JP Mishra a/w Jitendra Shukla for appellant.

Ms Smita V. Tondwalkar for respondent/MMC.

Coram : R. N. Laddha, J.

Date : 18 March 2024.

P.C. :

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

2. Mr JP Mishra, learned Counsel for the appellant, submits that

the appellant has received notice dated 22.12.2023 from the respondent-corporation u/s 351 of the MMC Act, 1988 (for short,'the Act'). The appellant replied the notice but the corporation did not consider it, nor the documents placed on record, in its proper perspective. On 02.02.2024, the corporation issued an order of demolition. The learned trial court, however, refused ad-interim relief without taking into consideration all these aspects.

3. Ms Smita V. Tondwalkar, the learned Counsel for the MMC, supports the line of reasoning adopted by the learned trial Court. She submits that the trial court has considered all the relevant aspects and passed the appropriate order.

4. The present appeal is filed challenging order dated 27.02.2024, refusing ad-interim relief to the appellant/plaintiff in Notice of Motion No.1102/2024 in LC Suit No.690/2024. Considering the nature of dispute, involved in the present appeal, instead of determining correctness of the order, it would be appropriate to request the learned trial Court to consider and decide the said notice of motion. As such, the learned trial Court is requested to expedite the hearing of the notice of motion and decide it preferably within four weeks from receipt of copy of this

order. Till then, the parties to maintain the *staus-quo*.

5. The instant appeal from order stands disposed of accordingly.
As a sequel, the pending application also stands disposed of.

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