

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 17229 OF 2023
IN
SECOND APPEAL NO. 641 OF 2023

Vivek Upadhyay

**....Applicant/
Appellant**

V/s.

Mira Bhayander Municipal Corporation
Through its Commissioner

....Respondent

WITH

INTERIM APPLICATION NO. 17229 OF 2023
IN
SECOND APPEAL NO. 614 OF 2023

Madan J. Upadhyay

....Applicant

V/s.

Mira Bhayander Municipal Corporation
Through its Commissioner

....Respondent

WITH

INTERIM APPLICATION NO. 17231 OF 2023
IN
SECOND APPEAL NO. 642 OF 2023

Lallan Yadav

**....Applicant/
Appellant**

V/s.

Mira Bhayander Municipal Corporation
Through its Commissioner

....Respondent

WITH
INTERIM APPLICATION NO. 17228 OF 2023
IN
SECOND APPEAL NO. 643 OF 2023

Raish Akbar Khan

....Applicant/
Appellant

V/s.

Mira Bhayander Municipal Corporation
Through its Commissioner

....Respondent

WITH
INTERIM APPLICATION NO. 17233 OF 2023
IN
SECOND APPEAL NO. 578 OF 2023

Vivek Upadhyay

....Applicant/
Appellant

V/s.

Mira Bhayander Municipal Corporation
Through its Commissioner

....Respondent

Mr. Ashutosh R. Gole, for the Applicant.

Mr. N.R. Bubna, for the Respondent.

CORAM : SANDEEP V. MARNE, J.

Dated : 10 January 2024.

P.C. :

1. The Interim Applications are filed seeking extension of time fixed for demolition of the suit structures.

2. I have perused the Order dated 15 December 2022 passed by this Court. This Court has recorded Undertakings given by the Appellants for vacation of the suit property and demolition thereof within six months. On account of filing of such Undertakings, in ordinary course this Court would be loathe in extending the time limit which was fixed by the Appellants themselves for demolition of the suit structures.

3. However, Mr. Gole, the learned counsel appearing for the Appellants would draw my attention to the observations made by this Court in para-7 of the Order which reads thus :

7. However, the Appellant is at liberty to file application seeking alternate structure within a period of three weeks from today. Mr. Bubna, learned counsel appearing for the Respondent states that if such application is filed, the same will be decided in accordance with law within three months after receipt of the application. It is clarified that this Court has not examined said aspect regarding alternate premises and all the contentions in that behalf are expressly kept open.”

4. According to Mr. Gole, in pursuance of the liberty granted by this Court, in para-7 of the Order, the Applicants/Appellants have preferred applications before the Municipal Corporation for allotment of alternate premises. It appears that the Municipal Corporation called for several documents from the Appellants by letter dated 9 March 2023. After submission of the requisite documents, it appears that the Municipal Corporation proceeded to determine the eligibility of each of the Applicant for grant of alternate premises and has held them to be eligible for grant of such alternate premises. Letters to that effect have been issued to the Applicants on 31 March 2023. However, it appears that on account of non-availability of alternate premises with the Municipal Corporation, the actual allotment has not been done even though the Appellants are found eligible for such allotment.

5. Mr. Gole would invite my attention to the letter dated 11 August 2023 of the Assistant Director of Town Planning of the Municipal Corporation which records that the Municipal Corporation has received possession of about 200 premises. Mr. Gole would therefore submit that since the premises for allotment are now available with the Municipal Corporation, the Applicants are likely to be allotted the same. For this purpose, extension of time for demolition of the suit structure is sought.

6. The Interim Applications are accordingly **disposed of** by directing that the Municipal Corporation to take decision with regard to the Applications made by the Applicants for allotment of alternate premises within four weeks from today. The time undertaken by the Applicants for

eviction and demolition of the suit structures shall stand extended upto to 31
March 2024.

NEETA
SHAILESH
SAWANT

SANDEEP V. MARNE, J.

Digitally signed by
NEETA SHAILESH
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