

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO. 8 OF 2024
IN
INTERIM APPLICATION NO. 132 OF 2024
IN
APPEAL FROM ORDER NO. 8 OF 2024**

Jaya Korga Shetty ... Appellant
Versus
The Mumbai Municipal Corporation
of Greater Mumbai, through F/North
Ward Office ... Respondent

Mr. Vishal Kanade a/w Ram U. Singh and Pradeep Yadav i/by C. B.
Yadav for the Appellant.
Ms. Smita V. Tondwalkar for Respondent/MCGM.

CORAM: R. N. LADDHA, J.

DATE : 5 JANUARY 2024

P.C. :-

. This appeal is listed today on account of praceipe moved by the learned counsel appearing for the appellant dated 2 January 2024 for urgent listing on the ground that respondent/corporation sought to take action of demolition of the suit premises. Accordingly, as per request of the learned counsel appearing for the appellant and in view of the proposed demolition, as per the notice, the appeal is taken up for hearing.

2. Mr Vishal Kanade, the learned counsel appearing for the

appellant, submits that as the appellant has received a notice from the respondent/corporation under Section 351 of the Mumbai Municipal Corporation Act, 1888 (for short, 'the MMC Act'). The appellant replied to this notice, but the corporation did not consider it, nor it consider the documents placed on record in its proper perspective. On 29 November 2023, 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. Tondvalkar, learned counsel appearing for the respondent/corporation supports the line of reasoning adopted by the learned trial Court. She informs the Court that respondent/corporation is yet to file its reply to the Notice of Motion.

4. The present appeal is filed challenging the order dated 15 December 2023 refusing ad-interim relief to the appellant/plaintiff in Notice of Motion No.4819 of 2023 in L.C. Suit No.449 of 2023. Considering the nature of the dispute involved in the present appeal, instead of determining the correctness of the impugned order, it would be appropriate that the City Civil Court consider and decide the Notice of Motion No.4819 of 2023 in L.C. Suit No.449 of 2023 finally.

5. The learned counsel for respondent/corporation states that the corporation will file an affidavit-in-reply to the Notice of Motion within three weeks from today, in the trial Court. The

appellant/plaintiff shall file a rejoinder, if any, within one week thereafter, with an advance copy to be served on the other side. The trial Court is requested to expedite the hearing of the Notice of Motion and decide it preferably within six weeks from the date of receipt of the copy of this order.

6. In view of this, the instant Appeal stands disposed of accordingly. The pending application also stands disposed of. Needless to state that this Court has not examined the merits of the case and all contentions of the parties are left open.

R. N. LADDHA, J.