



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

APPEAL FROM ORDER NO.396/2024

WITH

**INTERIM APPLICATION ST.NO.15489/2024
in
APPEAL FROM ORDER NO.396/2024**

ASHWIN GADA ..APPELLANT

VS.

M/S. MILAN ASSOCIATES & ORS. ..RESPONDENTS

Adv. Ram Upadhyay a/w. Adv. Anuj Pande i/b. Law
Competere Consultus for appellant.

Adv. Rahul P. Raut for respondent nos.1 to 5.

Adv. S. S. Nikam for respondent nos. 6 to 14.

CORAM : RAJESH S. PATIL, J.

**DATE : JUNE 4, 2024.
(VACATION COURT)**

P.C. :

1. This appeal from order challenges an order dated 22/5/2024 passed by the trial Court on Exhibit '5' in R.C.S. No.187/2024.

2. The appellant has filed the suit challenging a notice issued under Section 268 of the Maharashtra Municipal

Corporation Act. The trial Court by its order dated 22/5/2024 has refused to grant any interim protection to the appellant. Hence, the present appeal from order is filed by the appellant.

3. It is an admitted position that the building is more than 40 years old and consists of ground plus three floors. On the ground floor, there are commercial premises. The present appellant is a person to whom the commercial premises belong. There is no dispute that the residential units have already been vacated.

4. Mr.Nikam appearing for the respondent nos.6 to 14 submits that certain parts of the building has already been demolished including the premises which were belonging to the appellant.

5. Mr. Upadhyay appearing for the appellant tenders a copy of photographs whereby the parts of commercial premises have been demolished. The photographs are taken on record and for ease of reference the same are reproduced hereinbelow:-









6. The counsels appearing for the respondent nos.1 to 5 and for the respondent nos.6 to 14 have tendered their reply and the copies of the same has also been furnished to Mr. Upadhyay.

7. Mr.Nikam submits that the developer is also ready to sign PAAA agreement with the appellant on the same condition as it has been done with the residential units and as per the rules prevailed.

8. Taking into consideration the above facts and the ratio laid down by Division Bench of this Court, in the judgment of ***Mahendra Shah vs. M.C.G.M.***, reported in **(2019) 5 Bom CR 451**, it is made clear that interim protection, if any granted to the appellant, is hereby vacated.

9. Stand over to **11/6/2024**.

10. All contentions of the parties are kept open.

(RAJESH S. PATIL, J.)