

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

**APPEAL FROM ORDER NO. 456 OF 2024
WITH
INTERIM APPLICATION NO. 9537 OF 2024
IN
APPEAL FROM ORDER NO. 456 OF 2024**

Dashrath Narhari Dabade

.... Appellant

V/s.

The Municipal Corporation of Greater
Mumbai

.... Respondent

Mr. P.J. Thorat a/w. Adv. J.S. Yadav i/b. Mr. B.S. Shukla for the Appellant.
Ms. Seena Rawade for the Respondent – MCGM.
Mr. Gopal Arde, Jr. Engineer, MCGM, present.

CORAM : SHYAM C. CHANDAK, J.

DATED : 04th OCTOBER, 2024

P.C. :-

. Heard learned Advocates for the respective parties. Perused the Appeal memo and the Interim Application filed therein.

2) Learned counsel for the Appellant submits that, the suit structure which is the subject matter under Section 351 of the Mumbai Municipal Corporation Act is in existence since 1977. Barring doing some minor repairs, no substantive change in done in the suit structure. However, the learned Judge, City Civil Court, Dindoshi, Borivali Division, Mumbai refused the ad-interim relief by Order dated 10th May, 2024. He further submits that, after rejection of the ad-interim relief, the trial Court protected the suit structure by way of ad-interim relief i.e., the Respondent

shall not take coercive action till 11th June, 2024. Immediately thereafter, the Appeal has been filed. However, it could not reach. Now, the Suit along with Notice of Motion is fixed before the trial Court on 26th November, 2024 for filing reply.

3) Learned Advocate for the Respondent-Corporation states that, the Corporation will file the reply to the Notice of Motion on the next date, with advance copy to the other side.

4) In view thereof, if this Appeal is heard on the point of admission and thereafter it remains pending, the hearing and disposal of the Notice of Motion would be delayed and so the suit. In the backdrop, this Court deem it appropriate that, the Appeal is disposed of with a direction that, the ad-interim relief is continued till 26th November, 2024 with discretion to the trial Court to continue the same after hearing the parties, till the disposal of the Notice of Motion. Hence, following order :-

- (a) Appeal from Order No.456 of 2024 is disposed of.
- (b) Respondent – Corporation shall not take coercive steps against the structure as specifically described and shown in the said impugned Notice bearing No.RC/Do1RC/014/351-MMC ACT/RC73No1/09-03-2024 dated 09th March, 2024, till 26th November, 2024.
- (c) The trial Court is at discretion to continue the ad-interim relief after hearing the parties, till disposal of the Notice of Motion.

(d) It is made clear that, the aforesaid Appeal is not decided on merits. All contentions of the parties are left open for consideration on its own merits.

5) Appeal stands disposed of in above terms.

6) As a result, Interim Application No.9537 of 2024 does not survive and stands disposed of, accordingly.

**PREETI
HEERO
JAYANI**

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by PREETI
HEERO JAYANI
Date: 2024.10.17
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(SHYAM C. CHANDAK, J.)