

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

**APPEAL FROM ORDER NO. 555 OF 2024
WITH
INTERIM APPLICATION NO.10937 OF 2024
IN
APPEAL FROM ORDER NO. 555 OF 2024**

Jignesh Vinodchandra Panchal ...Appellant/Applicant.
Versus
Mumbai Metropolitan Region Development
Authority And Anr. ...Respondents

Ms Varsha R. Mishra for the Appellant.
Mr. Akshay Shinde for the Respondent Nos. 1 & 2

CORAM : M. M. SATHAYE, J.

DATED : 25th NOVEMBER 2024

P.C.:

1. Heard learned Counsel for the Appellant and learned Counsel for the Respondents.
2. This Appeal from order is filed challenging two orders, both dated 04/05/2024 passed by Ad-hoc City Civil & Asst. Sessions Judge, Borivali Division, Dindoshi, first under Notice of Motion No. 2911 of 2019 and second under Contempt Notice of Motion No. 1469 of 2020.
3. At the outset, it is noted that so far as challenge to the order in Contempt Notice of Motion No. 1469 of 2020 is concerned, since the contempt is not held as proved, appeal will not lie against said order, under Bombay Amendment of Order 43 Rule 1(r). In that view of the matter,

challenge to the impugned order in Contempt Notice of Motion cannot be considered. The Appellant is at liberty to adopt appropriate legal proceedings as permitted under the law, to challenge the order dated 04/05/2024 passed in the Contempt Notice of Motion No. 1469 of 2020. Needless to mention that time spent by the Appellant in proceeding with the present Appeal from order, under *bona-fide* belief that this Appeal is maintainable, will be excluded while considering the challenge to the said order.

4. So far as first impugned order passed in the Notice of Motion No. 2911 of 2019 is concerned, it is seen from the record produced before the Court that, after the impugned notices dated 13.12.2017 and 15.12.2017 were issued, fresh inspection was carried out as per report of MIAL and fresh notices dated 09.10.2020 and 12.10.2020 were issued. It is not disputed that these fresh notices dated 09.10.2020 and 12.10.2020 are not challenged by the Appellant, as on today.

5. Considering that the Notice of Motion No. 2911 of 2019 was in respect of Notices of 13.12.2017 and 15.12.2017, which are now in essence replaced by fresh notices on 09.10.2020 and 12.10.2020, no purpose will be served in considering the Notice of Motion No. 2911 of 2019 on merits. Hence, the Appeal from order is disposed by passing the following order:

(a) The impugned order in the Notice of Motion No. 2911 of 2019 is not interfered with. However, it is clarified that the subject matter notices therein dated 13.12.2017 and 15.12.2017 are now replaced by the notices dated 09.10.2020 and 12.10.2020.

(b) The Appeals from Order and pending interim applications therein are disposed off in above terms.

(M. M. SATHAYE, J.)