

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

(SR. No. 28) APPEAL FROM ORDER NO. 764 OF 2024
WITH
INTERIM APPLICATION NO. 14393 OF 2024

Mr. Rampyare J. Benbashi

...Appellant/
Applicant

Versus

Brihanmumbai Municipal Corporation and Anr.

...Respondents

AND

(SR. No. 29) APPEAL FROM ORDER NO. 765 OF 2024
WITH
INTERIM APPLICATION NO. 14393 OF 2024

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Mr. Jaykar Shetty

...Appellant/
Applicant

Versus

Brihanmumbai Municipal Corporation and Anr.

...Respondents

AND

(SR. No. 30) APPEAL FROM ORDER NO. 772 OF 2024
WITH
INTERIM APPLICATION NO. 14454 OF 2024

Mr. Jitendra G. Kamble

...Appellant/
Applicant

Versus

Brihanmumbai Municipal Corporation and Anr.

...Respondents

Mr. Manish Gala a/w Ankit Shah, Jay Chheda, Nilesh Gala, Nidhi Chheda for the Appellants in all AO.

Mr. Amol Diwate, for Respondents/ MCGM in all AO.

CORAM : M.M. SATHAYE, J.

DATE : 11 NOVEMBER 2024

P.C. :

1. Heard learned counsels for the Appellants/Applicants and learned counsel for the Respondent/Municipal Corporation. At the outset, learned counsel for the Applicants, on instructions submits that they are ready to make the owner/landlord of the subject matter premises, party to the suits and necessary applications will be moved within a period of 2 weeks from today. Liberty is granted to make similar applications in these Appeals also.

2. These appeals are filed against orders of refusal of ad-interim relief dated 27.09.2024. Record shows that after the impugned orders were passed, by orders of same day, three weeks protection was granted by the Trial Court which expired on 18.10.2024. It is not disputed that subject matter structures are not demolished as on date. It is also not disputed that the subject matter structures are not on public road.

3. Learned counsel for the Applicants invited this Court's attention to the Conveyance Deed dated 08.01.2004 by which the present owner/landlord purchased the subject matter property from the erstwhile owner Ramchandra Shankar Sawant and Suvidha Shankar Sawant and this conveyance deed records the names of the existing tenants in the form of Annexure-A which shows the names of present Appellants at Serial Nos. 2, 3 and 4 under the head of Shops (near building). It is the case of the Applicants that they do not have necessary building plan or permission as they are tenants since the time of the erstwhile owner and present owner/landlord, after the purchase of the property in 2004, after a period of 20 years, has filed complaint

with the Municipal Corporation alleging that structures in possession of the Applicants are illegal. On the basis of the complaint filed by the landlord, the Municipal Corporation issued the notices dated 26.02.2024 against the Applicants u/s. 351(1A) of the Mumbai Municipal Corporation Act. The Applicants have relied upon the common assessment bill of the year 2003-2004 standing in the name of earlier landlord, which shows that assessment was done prior to 1961-62 as also upon speaking orders dated 12.09.2024, column 10 to contend that the existence of the structure on the ground floor, albeit for residential use, is reflected. It is further asserted that the present owner / landlord has not filed eviction suits against the Appellants.

4. Learned counsel for the Respondent-Municipal Corporation has supported the impugned order by submitting that apart from the common documents of the conveyance as well as assessment bills, there is no specific documents in respect of the suit structures.

5. Considering the aforesaid submissions and documents referred, I find it necessary to hear the matter in detail. Stand over to 25.11.2024 for issuance of notice to the present owner/landlord of the premises.

6. Till the next date, the protection granted by the Trial Court under orders dated 27.09.2024, shall continue to operate.

(M.M. SATHAYE, J.)