

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

APPEAL FROM ORDER [STAMP] NO.16885 OF 2024

Rajaram Ramprasad Tilak @ DhobiAppellant
Versus
The Municipal Corporation of Greater
Mumbai and others Respondents

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WITH
INTERIM APPLICATION NO.10269 OF 2024
IN
APPEAL FROM ORDER [STAMP] NO.16885 OF 2024

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WITH
INTERIM APPLICATION [STAMP] NO.16889 OF 2024
IN
APPEAL FROM ORDER [STAMP] NO.16885 OF 2024

Mr. Jagdish N. Jayale, Advocate for the Appellant/Applicant.
Mr. R.Y. Sirsikar, Advocate for Respondent No.1 to 3-BMC.
Mr. Manoj Gujar, Advocate a/w. Divya Yajurvedi and
Sudeshkumar Naidu i/b. C.R. Naidu for the Respondent
No.4.

CORAM : SARANG V. KOTWAL, J.

DATE : 08th JULY, 2024

P.C. :

1. This matter was mentioned for production
because the Regular Court is not available today. Considering

the urgency that the structure was likely to be demolished, this matter was mentioned. Therefore, I had directed learned counsel for the Appellant to give notice to the Respondents. Accordingly notice was given and the matter was listed on the production board.

2. I have heard the learned counsel for the parties. The urgent relief, which is sought by the Appellant, is for stay of demolition of the structure which is the subject matter of this A.O.

3. The Appellant has filed L.C. Suit No.2747/2022 before the City Civil Court, Dindoshi, Mumbai challenging the legality and validity of the notice issued by the Respondent No.3 and the speaking order dated 9.11.2022. The urgent relief which is claimed is in respect of the order dated 9.5.2024 passed by the learned Judge, City Civil Court, Dindoshi in Notice of Motion No.4077/2022 in L.C. Suit No.2747/2022. By that impugned order, the Notice of Motion was dismissed. The earlier protection granted to the Appellant was extended for a period of four weeks from

9.5.2024. Vide the earlier protection order dated 29.11.2022 passed by the learned Judge, the Defendants were directed not to take any action in respect of the structure in pursuant to the notice under Section 351 of the MMC Act and the speaking order dated 9.11.2022.

4. Today, learned counsel for the Appellant submits that there is delay of eight days in filing the Appeal because the Advocate's mother had expired. The same Advocate was to prepare the Appeal and file it before this Court. Subsequently, the learned Advocate had to go to his native place to bring back his family. All this has caused the delay in filing the Appeal before this Court. At this stage, I am not making any observation regarding the genuineness or otherwise of the reasons for the delay and whether the delay can be condoned. That order can be passed after hearing the parties in detail. Today, I am only considering the urgent relief sought because learned counsel for the Appellant submitted that the structure is being demolished.

5. Learned counsel appearing for all the parties jointly state that the concerned structure is partially demolished. It has to be taken into consideration that there are heavy rains throughout the city of Mumbai today. Even the trains are affected. Considering the heavy rains, purely on humanitarian grounds, I am inclined to pass an order for a limited period till the next date directing the Respondents to not to take further steps to carry out further demolition. I am informed that the structure is demolished partially.

6. Learned counsel for the Appellant submitted that the structure is used for residential purposes. This statement is seriously disputed by the learned counsel for the Respondent No.4. Considering the discussion above, since the Appellant was protected initially from 29.11.2022 till May, 2024, no harm would be caused to any of the parties if the Appellant is protected by further short period till Thursday, 11th July, 2024.

7. Hence, the following order:

ORDER

- (i) The matter be listed before the Regular Court on 11.7.2024.
- (ii) Till then, no further steps be taken by the Respondents to carry out further demolition of the subject structure.
- (iii) It is made clear that all the contentions of all the parties are specifically left open.
- (iv) Learned counsel for the Respondent Nos.1 to 3 shall inform about passing of this order to the concerned authorities immediately.
- (v) Stand over to 11.7.2024.

(SARANG V. KOTWAL, J.)