

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

**APPEAL FROM ORDER NO. 748 OF 2024
WITH
INTERIM APPLICATION NO. 14139 OF 2024**

Ethashamuddin ShaikhAppellant
V/S
The Municipal Corporation Of Greater Mumbai & AnrRespondent

Mr. Rajesh Kachare a/w. Pravin Sawant i/b Mr. Shobhit Shukla for Appellant
Ms Pallavi Khare for Respondent-MCGM

CORAM : M. M. SATHAYE, J.

DATED : 20th DECEMBER 2024

P.C.:

1. Heard learned Counsel for the Appellant and learned Counsel for the Respondent-MCGM, who waives service.
2. The Appeal is filed challenging the order dated 14/08/2024 passed by Ad-hoc Judge, City Civil Court, Greater Mumbai in Notice of Motion No. 3244 of 2024 in Long Cause Suit No. 5447 of 2024. By the said Motion, the Appellant was seeking injunction against the Respondent-Corporation from giving effect to the suit notice dated 30/04/2024 coupled with speaking order dated 14/06/2024.
3. Learned Counsel for the Appellant invited this Court's attention to the letter dated 12/02/1991 under which the repair permission was sought and it was granted on 08/04/1991 alongwith approved plan of the same date. This plan *prima facie* indicates existence of mezzanine floor. Attention of the Court is also invited to Item No. 7 in Speaking Order where the said plan

was also relied upon by the Appellant, in reply to the suit notice. Perusal of the impugned order shows that this plan is considered by the Trial Court.

4. Perusal of the Inspection Report, pointed out by learned Counsel for the Respondent-Corporation shows that the structure height is 7.7 meters. *Prima facie* the plan relied upon by the Appellant shows that in 1991 itself the height of the existing structure was about 27 feet.

5. In that view of the matter, the Appeal needs to be considered on merits. Learned Counsel for the Respondent-Municipal Corporation seeks time to take necessary instructions.

6. Stand over to 29/01/2025. Till the next date, the Respondent-Corporation is directed not to take coercive steps pursuant to the impugned notice dated 30/04/2024 and speaking order dated 14/06/2024.

(M. M. SATHAYE, J.)