

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 880 OF 2024
WITH
INTERIM APPLICATION NO. 15514 OF 2024

Abrar Ahmad Abdul Munir Shaikh ...Appellant
Versus
The Municipal Corporation Of Greater Mumbai ...Respondent
K/East Ward

Mr. Shrishail Sakhare, for Appellant.
Ms. Seena Rawade, for Respondent.

CORAM : M.M. SATHAYE, J.

DATE : 10th DECEMBER, 2024

P.C. :

1. Heard learned counsel for the Appellant/Plaintiff and learned counsel for Respondent – Corporation.
2. The appeal is filed challenging the Order dated 22.10.2024 passed in Notice of Motion No. 3595 of 2024 in L.C. Suit No. 2156 of 2024 by Judge, City Civil Court, Borivali Div., Dindoshi, Mumbai. By the said impugned Order, motion filed by the Appellant for restraining Respondent - Corporation from acting on suit notice dated 12.02.2024 and speaking Order dated 03.10.2024, is dismissed.
3. Learned counsel for the Appellant submitted that suit notice

does not indicate suit CTS number on the suit structure. Appellant has relied upon the document of purchase/ agreement for sale dated 31.07.2010, to assert that he has purchased the suit structure. Perusal of said document indicates that it does not indicate any CTS number or details of plot of land on which the suit structure is standing. The Court is therefore left with a situation where neither the Appellant nor the Respondent Municipal Corporation has given details CTS number, in case of notice u/s.351 of Mumbai Municipal Corporation Act.

4. In such a situation, the Court is constrained to consider the very fact that the Appellant/Plaintiff has challenged the suit notice and therefore necessary inference has to be drawn that the Appellant's structure is affected by the suit notice and therefore, it is challenged. In that view of the matter, argument about absence of CTS number in suit notice is not helpful to the Appellant.

5. Learned counsel for the Appellant thereafter submitted that according to the Appellant, the suit structure is not within the jurisdiction of the Respondent - Corporation for issuance of suit notice. In this respect, it is material to note that learned Trial Judge, in para 14 of the impugned Order, has noted that as the per details of CSRA notified area produced by Respondent - Corporation before the Trial Court, the suit structure is in CTS No.273 which is not covered by the notified area and therefore is within jurisdiction of the Corporation.

6. Viewed in the light of what is stated above, if the impugned

order is perused, it is seen that the document of purchase relied upon by the the Appellant is considered. The Trial Court has also observed that no CTS number is mentioned in the agreement of sale. In any case, other documents such as electricity bills, shops & establishment certificate and leave and license agreement etc. by their very nature, are not useful for supporting the case of structure being authorized.

7. Typically, except sanctioned plan or permit by the Respondent Corporation, everything else is pressed into service.

8. In that view of the matter, there is no merit in the Appeal from Order. The impugned order is based on the material available before it. No perversity or error apparent on the face of record is found in impugned Order. No interfere is required.

9. Accordingly, the Appeal from Order and Interim Application are dismissed. No costs.

10. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)