

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 898 OF 2024
WITH
INTERIM APPLICATION NO. 15709 OF 2024

Yogesh Ranchhodbhai Patil

...Appellant

Versus

Municipal Corporation for Greater Mumbai

...Respondent

Mr. Vishal Rankhambe a/w Ms. Aparna Rankhambe for the Appellant.

Ms. Seena Rawade for Respondent/Corporation.

Mr. Siddhart Sonawane, Sub Engineer, F/South ward present.

CORAM : M.M. SATHAYE, J.

DATE : 12th DECEMBER 2024

P.C. :

1. Heard learned counsel for the Appellant and learned counsel for the Respondent/Corporation.

2. This appeal is filed challenging order dated 21.11.2024 by City Civil Court, Gr. Mumbai in Notice of Motion No. 4024 of 2016 in L.C.Suit No. 720 of 2016, rejecting the motion filed by Appellant for restraining Respondent/Corporation for implementing suit notice dated 26.02.2016 and speaking order dated 22.08.2016.

3. After arguing the matter on merits for some time, when this Court was not inclined to grant any protection, learned counsel for the Appellant, on instructions, submitted that the Appellant is willing to withdraw the Appeal from Order and thereby accept the impugned order, if limited protection till first week of January, 2025 is granted.

4. Learned counsel for the Respondent/Corporation has opposed this request on the ground that the impugned order is passed considering all the documents.

5. Learned counsel for the Appellant on instruction submits that Appellant is ready to even undertake to this Court that he will pull down the notice structure on or before 10.01.2025 and will not press subject matter suit i.e. L.C. Suit No. 720 of 2016.

6. The suit / notice structure is "unauthorized horizontal extension to the existing ground floor structure with the help of BMM Wall and AC sheet roofing admeasuring @ 3.00mtr X 3.30 mtr X 2.4 mtr height"

7. Considering that there is no merit in Appellant's claim but an old suit of 2016 will come to an end and the suit structure is protected till today, following order is passed :

(A) Only on a written undertaking being filed in this Court within a period of 1 week from today, stating that the Appellant will himself demolish / pull down the suit structure on or before 10.01.2025 and he will withdraw L.C.Suit No. 720 of 2016 on or before 10.01.2025 and he will not seek any further extension of time, the Respondent Corporation is directed not to give effect to the suit notice dated 26.02.2016 and speaking order dated 22.08.2016 till 10.01.2025.

(B) It is clarified that if such written undertaking is not filed within stipulated time, this protection will not continue and the Respondent Municipal Corporation will be at liberty to take appropriate steps for demolition.

(C) It is further clarified that this order will not affect any other notice issued by the Respondent Municipal Corporation to the Appellant/Plaintiff or will not benefit the Appellant in any other litigation.

(D) The time granted under this Order shall not be extended under any circumstances.

8. Appeal from Order alongwith Interim Application are dismissed as withdrawn on above terms.

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

(M.M. SATHAYE, J.)