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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 838 OF 2024
WITH
INTERIM APPLICATION NO. 15034 OF 2024
IN
APPEAL FROM ORDER NO. 838 OF 2024**

Ranjani Baranirajan Nadar

.....Appellant

Vs.

Municipal Corporation of Greater Mumbai
and anr

.....Respondents

Mr. R. D. Misra for the appellant
Mr. Om Suryawanshi for respondent-BMC

CORAM : GAURI GODSE, J.

DATE : 21st APRIL 2025

ORDER:

1. This appeal is preferred by the Plaintiff to challenge the refusal of ad-interim relief on 4th January 2022. Learned counsel for the appellant submits that the Corporation has filed a reply and the notice of motion is still pending.

2. The suit is filed to challenge the notice issued under Section 354A of The Mumbai Municipal Corporation Act ('the said Act'). While

refusing to grant the ad-interim relief, the learned Judge has perused the documents produced by the Corporation. The learned Judge has observed that the suit notice and the speaking order is already implemented and the structure is demolished on 30th June 2021. A subsequent notice issued by the Corporation under Section 488 of the said Act is also referred to by the learned Judge. The learned Judge has observed that based on the documents produced by the Corporation, the suit notice and the speaking order with regard to the demolition is already executed and the Corporation issued a fresh notice as fresh construction was observed at the site. The plaintiff has not disputed the documents relied upon by the Corporation as recorded in the impugned order. There is no explanation coming forth on the part of the plaintiff with reference to notice issued under Section 488 of the said Act.

3. Thus, considering the aforesaid facts, based on the documents relied upon by the Corporation, no fault can be found in the impugned order. The learned Judge has thus, rightly refused to grant any equitable relief.

4. Notice of motion is still pending before the City Civil Court. Hence, any further reasons in this appeal are likely to adversely affect

the rival contentions of the parties on merits. I do not see any illegality or perversity in the reasons recorded in the impugned order. Hence, the appeal is dismissed.

5. It is, however, clarified that notice of motion shall be decided on its own merits, uninfluenced by the impugned order or observations made in this order.

6. In view of dismissal of appeal, Interim Application No. 15034 of 2024 is disposed of as infructuous.

[GAURI GODSE, J.]