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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 68 OF 2025
WITH
INTERIM APPLICATION NO. 1308 OF 2025
IN
APPEAL FROM ORDER NO. 68 OF 2025**

Mukesh Kumar Shesnath Giri
Through Mr. Sahil Anil Vairat

.....Appellant

Vs.

Municipal Corporation of Greater Mumbai
Thr. Executive Engineer

.....Respondents

Mr. Anil R. Mishra i/b Mr. Vijay Shukla Advocate for the Appellant
Mr. Om Suryavanshi for respondent BMC

CORAM : GAURI GODSE, J.

DATE : 7th FEBRUARY 2025

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ORDER:

1. This appeal arises out of rejection of ad-interim relief by the City Civil Court. The suit is filed to challenge notice under Section 55 of The Maharashtra Regional and Town Planning Act, 1966.
2. Learned counsel for the Corporation submits that a reply on behalf of the Corporation in the notice of motion shall be filed on the next date. This Court, vide order dated 17th December 2024 has

extended the protection that was already granted by the City Civil Court. The City Civil Court had granted protection that no coercive action shall be taken till the next date.

3. When the impugned order was passed, reply of the Corporation was not filed. It would be appropriate that after considering the reply, notice of motion is heard on merits. Any reasons by this Court at this stage is likely to affect the merits of the rival contentions of the parties in the notice of motion.

4. Hence, by consent, appeal from order is disposed of by passing the following order:

ORDER

(I) The Corporation shall file affidavit-in-reply in the notice of motion on the next date.

(II) By way of ad-interim relief, no coercive action to be taken in respect of the offending structure during the pendency of the notice of motion.

(III) Notice of motion shall be decided on its own merits uninfluenced by the impugned order or any observations by this Court in this order.

(IV) All contentions of both parties on merits are kept open.

5. Appeal From Order is disposed of in above terms.

6. In view of disposal of Appeal From Order, Interim Application No. 1308 of 2025 is disposed of as infructuous.

[GAURI GODSE, J.]