

varsha

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 178 OF 2024
WITH
INTERIM APPLICATION NO. 1974 OF 2024
IN
APPEAL FROM ORDER NO. 178 OF 2024**

Maya Hemachandra Menon ... Appellant

vs.

Municipal Corporation of Greater Mumbai H/E ... Respondent
Ward Office

**WITH
INTERIM APPLICATION NO. 6315 OF 2024
IN
APPEAL FROM ORDER NO. 178 OF 2024**

Jaavi Infra Private Limited ... Applicant

IN THE MATTER BETWEEN

Maya Hemachandra Menon ... Appellant

vs.

Municipal Corporation of Greater Mumbai H/E ... Respondent
Ward Office

**WITH
APPEAL FROM ORDER NO. 185 OF 2024**

**WITH
INTERIM APPLICATION NO. 1993 OF 2024
IN
APPEAL FROM ORDER NO. 185 OF 2024**

Puthenveetil Dayanand Nair ... Appellant/Applicant

vs.

Municipal Corporation of Greater ... Respondent
Mumbai H/E Ward Office

WITH
INTERIM APPLICATION NO. 6316 OF 2024
IN
APPEAL FROM ORDER NO. 185 OF 2024

Jaavi Infra Private Limited ... Applicant

IN THE MATTER BETWEEN

Puthenveetil Dayanand Nair ...
Appellant/Applicant

vs.

Municipal Corporation of Greater Mumbai H/E ... Respondent
Ward Office

WITH
APPEAL FROM ORDER NO. 183 OF 2024
WITH
INTERIM APPLICATION NO. 1986 OF 2024
IN
APPEAL FROM ORDER NO. 183 OF 2024

Chandu Kanji Gada ... Appellant/Applicant

vs.

Municipal Corporation of Greater ... Respondent
Mumbai H/E Ward Office

WITH
INTERIM APPLICATION NO. 6314 OF 2024
IN
APPEAL FROM ORDER NO. 184 OF 2024

Jaavi Infra Private Limited ... Applicant

IN THE MATTER BETWEEN

Chandu Kanji Gada ... Appellant/Applicant

vs.

Municipal Corporation of Greater ... Respondent
Mumbai H/E Ward Office

WITH

APPEAL FROM ORDER NO. 184 OF 2024

WITH

INTERIM APPLICATION NO. 1990 OF 2024

IN

APPEAL FROM ORDER NO. 183 OF 2024

Ratnaben Kanji Gada ... Appellant/Applicant

vs.

Municipal Corporation of Greater ... Respondent
Mumbai H/E Ward Office

WITH

INTERIM APPLICATION NO. 6317 OF 2024

IN

APPEAL FROM ORDER NO. 183 OF 2024

Jaavi Infra Private Limited ... Applicant

IN THE MATTER BETWEEN

Ratnaben Kanji Gada ... Appellant/Applicant

vs.

Municipal Corporation of Greater ... Respondent
Mumbai H/E Ward Office

Ms. Sonal a/w. Mr. Pariket Shah for Appellants

Mr. Vaibhav Charalwar a/w. Mr. Aadil Parsuram Puriya and Mr.
Rutuparan Umesh Deo i/b. Mr. Aditya Lele for Intervenor.

Mr. Dharmesh Vyas a/w. Mr. Om Suryavansh for Respondednt-
BMC.

CORAM : GAURI GODSE, J.

DATED : 25th MARCH 2025

ORDER:

APPEAL FROM ORDER NO. 178 OF 2024, APPEAL FROM ORDER NO. 183 OF 2024 AND APPEAL FROM ORDER NO. 184 OF 2024

1. Learned counsel for the appellants on instructions seeks leave to withdraw the appeals.
2. Leave granted. Appeals are disposed of as withdrawn.
3. In view of disposal of the appeals, all the pending applications in the appeals are disposed of as infructuous.

APPEAL FROM ORDER NO. 185 OF 2024.

4. Heard learned counsel for the appellants. This appeal is preferred by the plaintiff against refusal to grant ad-interim relief. This appeal is part of the group of appeals which were substantially heard on 22nd January 2025. In order dated 22nd January 2025, submissions on behalf of the appellants' advocate was recorded in paragraph no.6 which reads as under:

"6. Learned counsel for the appellants on instructions submits that in the event there is no such plan in existence as referred to in the application at page 34, the appellants shall remove the mezzanine floor as referred to in the notice under Section 351. Learned counsel for the appellants on

instructions submits that undertaking as referred to above shall be filed by the respective appellants within one week."

5. So far as offending structure of mezzanine floor is concerned, no undertaking is filed on behalf of the appellants. Hence, as per the affidavit filed on behalf of the corporation after the aforesaid order, it is not necessary to record any further reason so far as mezzanine floor is concerned.

6. With regard to the extension on the ground floor, I have already recorded reasons that according to the speaking order of the corporation, the structure belonging to the appellant is admeasuring 344 square feet without Varanda, I have already recorded that in the absence of any document in the form of any assessment or any pleading regarding the area of ground floor being over and above 344 square feet, the prima facie observation of the City Civil Court that the ground floor area is an unauthorised extension cannot be faulted.

7. However, learned counsel for the appellants was permitted to point out the relevant document to support the contentions that the alleged extension in the notice under Section 351 is in existence since beginning and there is no unauthorised construction.

8. I have perused the pleading of the appellant and the

documents that are relied upon by the parties. Though an opportunity was given to the appellant, learned counsel who appears for the appellant today is unable to point out any pleadings to support the appellant's contention that the area over and above 344 square feet was in existence since 1961. In the absence of any pleadings or any document to even prima facie indicate that any area over and above 344 square feet was in existence, I see no reason to interfere in the impugned order.

9. Thus, for the reasons already recorded in order dated 22nd January 2025 and the aforesaid reasons, the impugned order refusing grant of ad-interim relief cannot be faulted.

10. Except, the present appeal i.e. Appeal from Order No. 185 of 2024, the rest of the appeals which were also subject matter of the earlier order dated 22nd January 2025 are already withdrawn by respective appellants.

11. In view of the aforesaid reasons, I do not see any merit in the present appeal.

12. Hence, the appeal is dismissed. In view of dismissal of the appeal, the pending applications in this appeal are disposed of as infructuous.

(GAURI GODSE, J.)