

MJ Jadhav

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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 467 OF 2024
WITH
INTERIM APPLICATION NO. 9668 OF 2024
IN
APPEAL FROM ORDER NO. 467 OF 2024**

M/s. Niyaz Ahmed Minorities and Educational Welfare Trust ... Appellant

vs.

The Municipal Corporation of Greater Mumbai ... Respondent

Mr. Pradeep Thorat a/w J. S. Yadav i/b B. S. Shukla for the Appellant.

Mr. Om Suryavanshi for the Respondent-BMC.

CORAM : GAURI GODSE, J.

DATED : 31st JANUARY 2025

ORDER :-

1. This appeal arises out of rejection of an ad-interim relief. The suit is filed to challenge notice dated 8th May 2024 calling upon the plaintiff to vacate the suit structure.

2. Learned counsel for the appellant submits that by the impugned notice, the appellant was called upon to vacate the suit structure on the ground that the structure was required for election purpose. He, however, submits that after the ad-interim relief was

refused by the City Civil Court, there is an attempt made to evict the plaintiff. He, therefore, requests for continuation of the ad-interim relief that was granted by the City Civil Court on 28th May 2024.

3. The notice of motion is still pending for hearing in the City Civil Court. When the ad-interim relief was refused, there was no reply filed on behalf of the corporation. By the impugned order, ad-interim relief was refused and the corporation was granted two weeks time to file reply.

4. Learned counsel for the corporation submits that reply is not yet filed, however, it will be filed on the next date.

5. Learned counsel for the appellant submits that the next date in the City Civil Court is 16th April 2025.

6. In view of the aforesaid, I do not see any reason why ad-interim protection should not be continued till the corporation files the reply and the notice of motion is heard.

7. Hence, appeal from order is disposed of by passing following order:

(I) Corporation shall file reply to the notice of motion on the next date in the City Civil Court i.e., 16th April 2025, with an advance copy to the plaintiff.

(II) By way of ad-interim relief, till the next date, before the City Civil Court, the appellant shall not be evicted pursuant to the notice impugned in the suit.

(III) On the next date, if the notice of motion is not heard and decided the ad-interim relief granted by this order shall continue till the disposal of the notice of motion.

8. It is clarified that the notice of motion shall be heard on its own merits, uninfluenced by the impugned order or the present order. The parties shall not be granted unnecessary adjournments.

9. The Appeal is disposed of in the above terms.

10. In view of the disposal of the appeal, interim application is disposed of as infructuous.

(GAURI GODSE, J.)