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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 123 OF 2025
IN
APPEAL FROM ORDER NO. 1095 OF 2022
WITH
INTERIM APPLICATION NO. 495 OF 2022
AND
INTERIM APPLICATION (L) NO. 9464 OF 2023**

Kishor Keshubhai Chudasama (Mistry) ... Appellant

Vs.

Municipal Corporation of Greater ... Respondent
Mumbai, through Assistant Commissioner

Mr. Aditya Dhatrak i/b. Mr. D. P. Singh for the Applicant.

Mr. Om Suryavanshi for Respondent – BMC.

CORAM : GAURI GODSE, J.

DATE : 8th JANUARY 2025

ORDER :

1. This application is for restoration of the appeal which was dismissed for non removal of office objection. This court had granted interim protection on 20th October 2022. Learned counsel for the applicant on instructions of the applicant who is present in court submits that a day before the interim protection was granted the suit structure was demolished. He submits that the applicant had submitted a grievance letter before the corporation and thereafter reconstructed the structure.

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2. Learned counsel for the corporation submits that there is no permission granted by the corporation to reconstruct the structure. Learned counsel for the corporation further points out order dated 21st June 2010 passed in Writ Petition No. 1665 of 2009. He submits that notice under Section 53 of the Maharashtra Regional and Town Planning Act, 1966 ("MRTP Act") was issued that was challenged by the plaintiff in this court. He submits that this court dismissed the petition by keeping the liberty open for the petitioner to adopt remedy under the provisions of the MRTP Act. Learned counsel for the appellant (plaintiff) submits that he has no instructions whether any application for regularisation was made.

3. I have perused the notice impugned in the suit. The notice alleges that the appellant has carried out unauthorised construction by enclosing car parking area. In view of these facts and circumstances, I am not inclined to restore the appeal.

4. Learned counsel for the appellant seeks time on the ground that the arguing counsel be permitted to make submissions.

5. To enable the learned counsel for the appellant to make submissions, list the appeal on 24th January 2025. To be listed High on Board under the caption for "Admission".

[GAURI GODSE, J.]