

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 884 OF 2022
WITH
INTERIM APPLICATION NO. 160 OF 2025
INTERIM APPLICATION NO. 18088 OF 2022
IN
APPEAL FROM ORDER NO. 884 OF 2022**

Shaikh Abdul Kased

.....Appellant

Vs.

Municipal Corporation of Greater Mumbai
and anr

.....Respondent

Mr. Anil Sakhare Senior Advocate a/w Mr. Shobhit Shukla for the
appellant

Mr. Drupad Patil a/w Mr. Om Suryavanshi for BMC

Mr. Navnit Jadhav A.E. (B &F) 'C' Ward

CORAM : GAURI GODSE, J.

DATE : 15th JANUARY 2025

ORDER:

1. Pursuant to the order dated 8th January 2025, learned senior counsel for the appellant has tendered an undertaking dated 13th January 2025 executed by the appellant. The undertaking is taken on record and marked as 'X' with today's date for identification.

2. The undertaking states that the appellant shall apply for

regularisation of the suit structure. The undertaking further states that if result of the regularisation application is adverse to the appellant, he would accept the impugned order dated 2nd January 2020 and the impugned notice dated 12th June 2015, subject to appellant's right to file appeal.

3. The undertaking further states that the respondent-Corporation be restrained from taking any coercive action pending regularisation proposal and appeal, if any. The status report dated 11th January 2025 prepared by the Corporation indicating the existing status of the structure is annexed to the undertaking.

4. Learned counsel for the Corporation has no objection to permit the appellant to file an application for regularisation. He, further submits that restraining order against the Corporation may not be made operative after the regularisation application is decided.

5. Hence, the appeal is disposed of by passing the following order.

ORDER

I. The undertaking of the appellant is taken on record and accepted as an undertaking to this Court. The undertaking of the appellant that no further construction

shall be carried out is accepted as an undertaking to the Court.

II. Appellant is permitted to withdraw the Suit No. 285 of 2020 pending in the City Civil Court with liberty to file an application for regularisation of the suit structure within four weeks from today.

III. The Corporation shall decide regularisation application as per law within four weeks from the date of filing an application for regularisation.

IV. Till the final order on regularisation application is passed by the Corporation, no coercive action shall be taken in respect of the suit structure.

V. In the event, result of the regularisation application is adverse to the appellant, the Corporation shall not implement iathe impugned order dated 2nd January 2020 and impugned notice dated 12th June 2015 for a period of two weeks to enable the appellant to file the appeal as permissible in law.

6. In view of the aforesaid, nothing survives for any consideration in

the appeal. Hence, the appeal is disposed of in aforesaid terms.

7. Needless to clarify that in the event, the result of regularisation application is adverse to the appellant and appeal, if any, initiated to challenge the result, the same to be decided on its own merits, uninfluenced by the order impugned in the appeal or the present order.

8. In view of disposal of appeal, all pending applications are disposed of as infructuous.

[GAURI GODSE, J.]