

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 45 OF 2025
WITH
INTERIM APPLICATION NO. 709 OF 2025
IN
APPEAL FROM ORDER NO. 45 OF 2025**

Mohammed Ayub Mohammed YaqubAppellant

Vs.

Municipal Corporation For Greater MumbaiRespondent

Mr. Mahindra Deshmukh h/f Ms. Sarita Donde Advocate for the
Appellant

Mr. Om Suryawanshi for respondent-BMC

CORAM : GAURI GODSE, J.

DATE : 11th FEBRUARY 2025

ORDER:

1. Heard learned counsel for the appellant. This appeal is preferred by the plaintiff to challenge the order dismissing the application for interim relief against the notice impugned in the suit. The suit is filed for challenging the notice under Section 354A of Mumbai Municipal Corporation Act ('the said Act').

2. Learned counsel for the appellant submits that the appellant has

carried out only tenantable repairs for which no permission is necessary. He, therefore, submits that the notice is illegal. Learned counsel for the appellant does not dispute that the construction as alleged in the notice is carried out by the plaintiff.

3. The provision of Section 342 read with Section 344 of the said Act is explicitly clear that the work as alleged in the impugned notice cannot be carried out without following the procedure as prescribed under Section 342 read with Section 344 of the said Act.

4. On considering the reply filed by the plaintiff, the Corporation has also issued a speaking order holding that the construction carried out by the plaintiff is unauthorised. Based on submissions made on behalf of the parties and the documents on record, the impugned order is passed refusing to grant any interim relief as prayed by the plaintiff. The relief of temporary injunction is refused by recording that construction carried out by the plaintiff prima facie indicates that the same was carried out without permission though notice under Section 354A of the said Act was issued.

5. I do not see any illegality or perversity in the reasons recorded for refusing the interim relief. The appellant does not dispute that he

has carried out the work as alleged in the impugned notice.

6. The appeal is devoid of any merit. Hence, the appeal is dismissed.

7. In view of dismissal of appeal, Interim Application No. 709 of 2025 is disposed of as infructuous.

[GAURI GODSE, J.]