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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**INTERIM APPLICATION NO. 8256 OF 2024
IN
APPEAL FROM ORDER ST NO. 442 OF 2023**

Vinodkumar Lalbahadur Singh and anrApplicants

Vs.

Municipal Corporation of Greater MumbaiRespondent
K-East Ward

Mr. Drupad S. Patil Advocate for the Applicant
Mr. Om Suryawanshi for respondent-BMC

CORAM : GAURI GODSE, J.

DATE : 10th FEBRUARY 2025

ORDER:

1. This application is for restoration of the earlier application for restoration of the appeal from order. Application for restoration of the appeal was dismissed on 2nd April 2024. Earlier, appeal was dismissed for non compliance with the conditional time granted to remove office objections. The appeal is preferred by the plaintiff to challenge the dismissal of his notice of motion seeking injunction to protect his possession.

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2. I called upon learned counsel for the appellant to point out merits of the main appeal.

3. Learned counsel for the appellant submits that by the impugned order, protection is refused on the ground that possession is already handed over of the suit property to the Corporation by defendant no. 2, who is the original owner. He submits that the plaintiff claims through defendant no. 2 in respect of CTS No. 1/9. He submits that the possession receipt relied upon by the Corporation is in respect of CTS No. 1/7. He, thus submits that the only relief claimed by the appellant was to protect his possession restraining the respondent-Corporation from taking any action without following due process of law.

4. I have perused the impugned order and the plaint. The documents relied upon by the plaintiff are with reference to CTS No. 1/9. The application for interim relief is rejected on the ground that the possession is taken by the Corporation from defendant no. 2 in respect of city survey no. 1/7 and the plaintiff is not concerned with survey no. 1/7. Hence, considering the prayers in the suit and notice of motion with respect to CTS No. 1/9, the reasons recorded to refuse interim relief cannot be faulted. There is no case made out to grant any relief at the interim stage.

5. In the facts and circumstances of the case, Interim Application No. 8256 of 2024 is allowed and the appeal from order is restored.
6. For the reasons recorded above, Appeal From Order St No. 442 of 2023 is dismissed.

[GAURI GODSE, J.]