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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 10391 OF 2024
IN
APPEAL FROM ORDER (ST) NO. 16820 OF 2024**

Mrs. Supriya Sachin Kudtarkar ... Applicant

Vs.

M.C.G.M. and Another ... Respondents

Mr. Ajit Hodage for the Applicant.

Mr. Om Suryavanshi for the Respondent – BMC.

CORAM : GAURI GODSE, J.

DATE : 8th JANUARY 2025

ORDER :

Interim Application No. 10391 of 2024

1. This application is for condonation of delay of two days in filing the appeal.
2. In the facts and circumstances of the case, delay is condoned and the application is allowed in terms of prayer clause (a).

Appeal from Order (St) No. 16820 of 2024

3. Heard learned counsel for the parties. The appeal is filed for challenging rejection of the notice of motion filed by the plaintiff. In the notice of motion the plaintiff prayed for permission to carry out repairs of the suit premises

4. Notice of motion is rejected on the ground that the plaintiff was unable to show any ownership of the suit structure. Learned counsel for the appellant submits that the structure is standing on a Government land and he purchased the suit structure from defendant no. 2. He submits that pursuant to Government Notification the plaintiff's structure is protected. He therefore submits that the plaintiff be granted permission to carry out repairs.

5. Learned counsel for the corporation submits that according to the corporation the suit property is owned by the corporation. He submits that the original structure itself is unauthorised. He thus submits that in a pending suit the plaintiff would not be entitled to any interim relief in the nature of mandatory injunction for granting of permission to carry out repairs.

6. Perusal of the reasons recorded in the impugned order indicates that the plaintiff claims permission to carry out repairs as per the sketch plan attached to the plaint by making construction of G.I. Sheet wall and Tin roof on M.S. Frame admeasuring 500 sq.ft. The impugned order records that defendant no. 2 from whom the plaintiff claims rights has disputed the plaintiff's ownership. There is no dispute that the land is not owned by the plaintiff or any other private party. There is also no dispute that the existing structure is

unauthorised structure constructed without permission. In such circumstances, by way of interim relief the plaintiff would not be entitled to seek any relief as prayed in the notice of motion.

7. There is no illegality or perversity in the reasons recorded in the impugned order. Appeal is therefore dismissed.

8. In view of dismissal of the appeal, pending interim applications, if any, are disposed of as infructuous.

[GAURI GODSE, J.]