

MJ Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 786 OF 2024
WITH
INTERIM APPLICATION NO. 14550 OF 2024
IN
APPEAL FROM ORDER NO. 786 OF 2024**

M/s. G.K. A. Hotels Private Limited Thr. Its ... Appellant
Director Gulk. Achhra

vs.

Mumbai Municipal Corporation H/West Ward ... Respondent

Mr. Pradeep J. Thorat a/w Aditi S. Naikare i/b G. K. Achra for the
Appellant.

Mr. Om Suryavanshi for BMC- Respondent.

Mr. Akash Patil- J.E. (B&F) H/W, Present.

CORAM : GAURI GODSE, J.

DATED : 31st JANUARY 2025

ORDER :-

1. Heard learned counsels for the parties.
2. This appeal from order arises out of refusal of ad-interim relief in the suit filed by the appellant. This Court vide order dated 19th November 2024 has granted ad-interim protection.
3. When the ad-interim relief was refused by the City Civil Court, the corporation had not filed its reply. Learned counsel for the

corporation submits that reply will be filed in the suit on the next date i.e., on 7th March 2025.

4. There are disputed factual aspects involved in the appeal. Any reasons on the merits of the rival contentions recorded in this appeal are likely to cause prejudice to the parties at the time of hearing of the notice of motion, which is still pending before the City Civil Court.

5. Considering the disputed facts involved in the suit, the notice of motion is required to be heard after considering the affidavit in reply filed by the corporation. The plaintiff's structure is protected in view of the order passed by this Court.

6. In view of the aforesaid, I am not inclined to record any further reasons on the rival contentions of the parties on merits. It is appropriate that the City Civil Court decides the notice of motion finally.

7. The notice impugned in the suit is based on an order passed by this Court on 11th September 2024 for executing notice dated 12th June 2018. Hence, it is expected that the City Civil Court shall decide the notice of motion as expeditiously as possible.

8. Hence, appeal from order is disposed of by passing the following order:

(I) Corporation shall file reply to the notice of motion on the next date in the City Civil Court i.e., on 7th March 2025.

(II) Ad-interim protection granted by this Court vide order dated 19th November 2024 shall continue till the next date in the City Civil Court.

(III) If the corporation fails to file reply, on the next date, the learned Judge of the City Civil Court is at liberty to decide the notice of motion finally without waiting for the reply.

(IV) If the notice of motion is not decided finally on the next date, ad-interim relief shall continue till disposal of the notice of motion.

(V) The parties shall not be granted unnecessary adjournments.

9. It is clarified that the notice of motion shall be heard and decided on its own merits uninfluenced by the observations in the impugned order or the observations made by this Court in the order dated 19th November 2024 or the present order.

10. It is clarified that this Court has not examined the rival contentions of the parties on merits and all the contentions of the parties are kept open.

11. Considering the nature of the dispute, the City Civil Court shall consider disposing of the notice of motion as expeditiously as possible and not grant unnecessary adjournments to either of the parties.

12. Appeal from order is disposed of with the aforesaid observations.

13. In view of the disposal of the appeal, pending interim application is disposed of as infructuous.

(GAURI GODSE, J.)