

rrpillai

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 166 OF 2025
WITH
INTERIM APPLICATION NO. 3520 OF 2025**

Purnima R. Pai ... Appellant/Applicant

Vs.

Municipal Corporation of ... Respondents

Greater Mumbai through its
Commissioner and Others

Mr. Yashodeep Deshmukh a/w. Mr. Vinod Mahadik, Mr. Kuldeep
Singh and Mr. J Singh for the Appellant/Applicant.

Mr. R. Y. Sirsikar a/w. Mr. Anand Khairnar i/b. Mr. Komal Panjabi for
the Respondent – BMC.

CORAM : GAURI GODSE, J.

DATE : 12th MARCH 2025

ORDER :

1. This appeal is filed by the plaintiff to challenge the refusal of ad-interim relief. The suit is filed to challenge the notice under Section 351 of the Mumbai Municipal Corporation Act, 1988. The corporation has already filed reply to the notice of motion. The impugned order indicates that the motion is listed for final arguments. Since the reply is already filed and the motion is pending for final argument any further reasons recorded by this court on the merits of the parties is likely to cause prejudice to the rival contention on merits of both the parties.

2. Learned counsel for the appellant submits that the appellant has filed various documents to support her contention that there is no permanent construction carried out as indicated in the impugned notice. He further submits that the work of wooden partition is part of the renovation which would not require any permission.

3. The disputed question can be decided by the City Civil Court after considering the reply filed by the corporation. Pending the notice of motion, if the notice is implemented, it will cause serious prejudice to the plaintiff's right and contention. Since the motion is still pending, I see no reason for not granting ad-interim protection in view of the documents relied upon by the appellant.

4. The appeal is therefore allowed by passing the following order:-

(i) Notice of motion shall be decided on its own merits after considering the rival pleadings of the parties including the documents relied upon by the appellant and uninfluenced by the observation in the impugned order and any observation in this order.

(ii) By way of ad-interim relief, during the pendency of the notice of motion, no coercive action to be taken pursuant to the notice impugned in the suit.

(iii) The rival contentions of both the parties on merits are kept open.

(iv) Appeal is allowed in the aforesaid terms.

(v) In view of the disposal of the appeal, interim application is disposed of as infructuous.

(vi) Appellant is at liberty to file additional documents to support the appellant's contention in the City Civil Court.

[GAURI GODSE, J.]