

Iresh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 167 OF 2025
WITH
INTERIM APPLICATION NO. 3578 OF 2025
IN
APPEAL FROM ORDER NO. 167 OF 2025**

Ranjit Singh Chandhok

.....Appellant

Vs.

Municipal Corporation of Greater Mumbai
Thr. H-West Ward

.....Respondent

Mr. Prathmesh Seth a/w Mr. Joseph Fernandes, Mr. Hitesh Kalbate for
the appellant
Mr. Drupad Patil a/w Ms. Neeta Jadhav i/b Ms. Komal Punjabi for
respondent BMC

IRESH
MASHAL

CORAM : GAURI GODSE, J.

DATE : 29th APRIL 2025

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ORDER:

1. This appeal is preferred by the plaintiff to challenge the dismissal of his notice of motion seeking protection from implementation of the notice under Section 53(1) of the The Maharashtra Regional and Town Planning Act ('the said Act').

2. Learned counsel for the appellant has tendered affidavit-cum-

This is the corrected order pursuant to speaking to minutes order dated 5th May 2025.

undertaking dated 28th April 2025 executed by the appellant. The affidavit states that he shall file an application for regularisation of the offending structure within four weeks. The affidavit further states that if the regularisation application is not favourably decided, he shall remove the offending structure subject to his right to file appeal. The appellant has also undertaken that he shall not carry out any further construction or create any third party rights.

3. The affidavit-cum-undertaking is taken on record and marked as 'X' with today's date for identification.

4. In view of the undertakings given by the appellant, nothing further survives for consideration in this appeal.

5. Learned counsel for the Corporation submits that it may be clarified that if the undertaking is not abided and regularisation application is not filed, the Corporation shall be at liberty to implement the impugned notice and the speaking order. **He** submits that it may be also clarified that if the regularisation application is adversely decided and the appellant files any appeal, but if no favourable orders are passed, the Corporation shall be at liberty to implement the

impugned notice and the speaking order.

5A. Learned counsel for the appellant submits that in view of the FIR lodged by the corporation despite the order of status quo, the appellant would be required to file petition for quashing the FIR. Learned counsel for the corporation on instructions of Mr. Dinesh Pallegad, Assistant Commissioner, H/W Ward submits that if a petition is filed for quashing the FIR lodged against the appellant, no objection shall be given on behalf of the corporation. Statement made on behalf of the corporation is accepted as an assurance to this Court.

6. In view of the aforesaid, the appeal is disposed of by passing the following order:

ORDER

I. The undertakings recorded in the affidavit-cum-undertaking are accepted as undertakings to this Court.

II. The appellant is permitted to file an application for regularisation of the offending structure within four weeks from today. If such application is filed, the same shall be decided by the Corporation within four weeks thereafter.

III. Till the decision of the regularisation application, the

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impugned notice and the speaking order shall not be implemented.

IV. If the decision in the regularisation application is adverse to the appellant, the same shall not be implemented for a period of four weeks from the date of intimation of the decision to the appellant.

V. In the event the appellant fails to abide by the undertakings given and the regularisation application is not filed within the time granted, the Corporation shall be at liberty to implement the impugned notice and the speaking order.

VI. It is further clarified that in the eventuality of filing any appeal against the decision of the regularisation application, if any favourable orders are not passed in the appeal, the Corporation shall be at liberty to implement the impugned notice and the speaking order after expiry of four weeks from the date of intimation of the decision on the regularisation application to the appellant.

This is the corrected order pursuant to speaking to minutes order dated 5th May 2025.

VII. The appellant is at liberty to file appropriate application for quashing the FIR by consent.

7. The appeal is disposed of in aforesaid terms.

8. In view of disposal of appeal, pending applications, if any, are disposed of as infructuous.

[GAURI GODSE, J.]