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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 277 OF 2025**

Joseph Clement Rufus ... Appellant

Vs.

Municipal Corporation of Greater ... Respondent
Mumbai through Ajay Bhandve
Designated Officer, K/W Ward

Mr. Kunal Kumbhat a/w. Mr. Sejal Todkar and Mr. Joseph Rufus for
the Appellant.

Mr. Om Suryavanshi i/b. Mr. Komal Punjabi for Respondent-BMC.

CORAM : GAURI GODSE, J.

DATE : 7th MAY 2025

ORDER :

1. Not on board. Taken on production board.
2. This appeal is preferred by the plaintiff to challenge the order refusing grant of ad-interim relief. The suit is filed to challenge notice under Section 55 of the Maharashtra Regional and Town Planning Act, 1966.
3. Learned counsel for the appellant submits that corporation is not the planning authority and MHADA is appointed as special planning authority. He relies upon a letter dated 10th January 2020

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issued by the corporation stating that MHADA is appointed as special planning authority. He thus submits that the impugned notice issued by the corporation is without any jurisdiction.

4. After arguing the appeal for some time, learned counsel for the appellant submits that the appellant is agreeable to remove the offending structure within a week. He submits that the appellant be permitted to make appropriate application for permission to construct temporary shed. He submits that since it was intimated by the corporation that the special planning authority is MHADA, the appellant had already filed an application for permission on 13th August 2021 with MHADA, however, that application was never decided.

5. I have perused the copy of the application dated 13th August 2021. MHADA is not made a party to the suit or this appeal. Hence copy of the letter cannot be examined and no reasons can be recorded based on the said letter. However, learned counsel for the corporation on instructions submits that the appellant is required to file application for permission before the building proposal of the corporation. He on instructions submits that if an application is filed, the same shall be decided by the concerned office of the building proposal department expeditiously.

6. In view of the statement made on behalf of the corporation, learned counsel for the appellant seeks liberty to file appropriate application for permission of construction of temporary shed before the building proposal department of the corporation. He submits that necessary application will be filed within a week. He further submits that considering the urgency due to the ensuing monsoon period, the building proposal department of the corporation may decide his application expeditiously.

7. Learned counsel for the appellant has tendered photographs which shows the offending structure. The photograph is taken on record and marked "X" with today's date for identification. Learned counsel for the appellant on instructions of the appellant who is present in court submits that the offending structure as seen in the photograph shall be removed by him within one week with liberty to apply for permission for construction of the shed. He further submits that if permission is granted, the appellant be permitted to construct the shed.

8. In view of the aforesaid, nothing survives for further consideration in the appeal. Hence, the appeal is disposed of by passing the following order :

- (i) The undertaking given by the appellant that he shall remove the offending structure within one week is accepted. Appellant is granted one week's time to remove the offending structure.
- (ii) Appellant is further permitted to file appropriate application for permission to construct temporary shed by filing application before the building proposal department of the respondent-corporation.
- (iii) If such an application is filed within a week, the concerned department of the corporation shall decide the application within four weeks, thereafter.
- (iv) If permission is granted, the appellant is at liberty to carry out necessary construction as per permission.
- (v) Assurance and undertaking given by the appellant as recorded above are accepted as undertakings to this court.
- (vi) In view of the aforesaid, no further action shall be taken by the corporation to remove the offending structure for a period of one week.
- (vii) In the event the appellant fails to abide by the assurance given by him and as recorded above, the corporation shall be at liberty to implement the impugned notice.

- (viii) Appeal is disposed of in above terms.
- (ix) In view of the disposal of the appeal, pending applications if any, are disposed of as infructuous.

[GAURI GODSE, J.]