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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

APPEAL FROM ORDER NO. 520 OF 2025

Smt. Shubhangi Rajendra Goregaonkar .. Appellant
Versus
Mumbai Municipal Corporation and anr. .. Respondents

-
- Mr. Samir Sarambalkar, Advocate for Appellant.
 - Ms. Neeta Jadhav i/b Ms. Komal Punjabi, for Respondents-BMC.
-

CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 23, 2025

P. C.:

1. Heard Mr. Sarambalkar and Ms. Jadhav, learned Advocates appearing for the respective parties in the present Appeal From Order. The Appeal from Order is filed in peculiar circumstances by the plaintiff. There is no specific order rejecting ad-interim relief passed by the learned Trial Court since the Court was moved on a holiday in view of threat of demolition of Appellant-plaintiff's 400 sq.ft structure. According to Appellant, the said structure is in existence prior to the year 2000. The impugned action was apprehended by Appellant in view of notice dated 29/08/2025 appended at Exhibit 'C' page 56 of the Appeal. In that notice it is stated that the Appellant has not furnished any cogent and relevant material to prove existence of the suit structure prior to 01/01/2000. Also noted in the notice is the fact

that the survey receipt issued by the Mumbai Municipal Corporation (“the Corporation”, for short) has not been produced by the Appellant along with the relevant documentary evidence.

2. Mr. Sarambalkar has invited my attention to the letter dated 11/08/2025 appended at Exhibit ‘B’ page 54 which is addressed to the Corporation in the above regard. This letter has been received by the Corporation as it bears its acknowledgment stamp. He would draw my attention to the documentary evidence appended to that letter wherein there is a specific reference to the survey receipt bearing no. 0050391 dated 22/07/2000, inter alia, pertaining to the subject suit structure issued in favour of the Appellant i.e. precisely the survey receipt which has been commented upon in the impugned notice dated 29/08/2025 and stated to be not supplied by the Appellant. The copy of the said survey receipt is appended at page 41 of the Appeal. Mr. Sarambalkar has across the bar produced the original copy of the said survey receipt which has been issued by the Corporation. After perusing the original survey receipt, I have returned it back to him. In view of prima facie material made available on record, there ought to have been appropriate consideration of the same construing that the impugned notice dated 29/08/2025 itself states that the Corporation survey receipt is not present in the documents filed by the Appellant. No purpose

whatsoever will be served in relegating the plaintiff back to the Trial Court. There is prima facie non-consideration of the very material mentioned which is stated in the impugned notice itself and the same has been shown to the Court. It would be in the interest of justice if the impugned notice dated 29/08/2025 is quashed and set aside with specific directions to the Corporation to consider the application dated 11/08/2025 filed by Appellant along with all necessary documentary evidence appended thereto including the survey receipt bearing no. 0050391 dated 22/07/2000 and determine Appellant's eligibility. Needless to state that the Corporation shall ascertain the veracity of the said survey receipt according to the details recorded in its own survey register and accordingly determine the eligibility of the Appellant strictly in accordance with law.

3. In view of the aforesaid prima facie observations and findings, the impugned notice dated 29/08/2025 stands quashed and set aside. Once this notice stands quashed and set aside, nothing survives in the pending Suit No. 0102087 of 2025 and hence, the Suit and draft Notice of Motion, if any, is directed as disposed.

4. In view of the above, the present Appeal from Order and Interim Application also stand disposed.

5. In view of the above disposal and observations, the Corporation is directed to reconsider the application dated 11/08/2025 in consonance with the documentary evidence appended thereto including the survey receipt and the extant policy governing determination of eligibility. The Appellant shall be accorded an appropriate opportunity of hearing before the Corporation to produce the original survey receipt and all other documentary evidence, inter alia, evidencing the fact that Appellant's subject suit structure was in existence prior to 01/01/2000. If the Appellant succeeds in proving the same, the Corporation shall consider her case strictly in accordance of law and pass appropriate directions and order determining the eligibility of Appellant.

6. Needless to state that the aforesaid entire exercise shall be completed by the Corporation within a period of 4 weeks from today positively. The concerned competent authority of the Corporation shall take cognizance of this order and act accordingly.

7. All questions and issues of the Appellant as also the Corporation are expressly kept open.

8. With the above directions, Appeal from Order stands disposed.

[MILIND N. JADHAV, J.]