

MJ Jadhav

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 67 OF 2025
WITH
INTERIM APPLICATION NO. 1306 OF 2025
IN
APPEAL FROM ORDER NO. 67 OF 2025**

Avinash Lund and Anr. ... Appellants

vs.

Municipal Corporation of Greater Mumbai
Through Its Legal Department and Anr. ... Respondents

Mr. Girish Godbole, Senior Advocate a/w Mayur Khandeparkar a/w
Mustufa Kachwala a/w Shristi Shetty a/w Kaustub Patil i/b
Krishnamurthy & Co. for the Appellants.

Mr. Om Suryavanshi for the Respondent- BMC.

Mr. Vikram Somwanshi for J.E. (B&F) M/W Ward, Present.

Mr. Avinash Lund- Appellant, Present.

CORAM : GAURI GODSE, J.

DATED : 3rd FEBRUARY 2025

ORDER :-

1. This appeal arises out of rejection of an ad-interim relief. The suit is filed to challenge notice dated 9th December 2024 issued by the corporation under Section 53(1) r/w Section 52(1)(b) and (d) of the Maharashtra Regional and Town Planning Act, 1966 (MRTP Act) and order dated 17th January 2025 issued pursuant to the notice.

2. Learned senior counsel for the appellants submits that the appellants have already submitted regularization application for retention of the offending structure and the same is pending.

3. Learned counsel appearing for the corporation submits that the application is under process and shall be decided in accordance with law. He further submits that till the final decision on the appellant's application for retention is decided, the corporation shall not take any coercive action pursuant to the impugned notice and the order.

4. In view of the aforesaid, learned senior counsel for the appellants on instructions submits that the appellants would withdraw the present appeal from order as well as the suit as nothing would further survive for consideration. He, however, submits that if the order on the appellant's retention application is adverse to the appellants, no further action be taken for a period of four weeks to enable the appellants to prefer an appeal.

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

(I) Till the application for regularization/retention filed by the appellants on 20th January 2025 is finally decided, the corporation shall not take any action pursuant to

the impugned notice dated 9th December 2024 and order dated 17th January 2025.

(II) In the event, the final decision of the corporation on the appellant's application is adverse to the appellants, no further action to be taken against the appellants with respect to the offending structure/user for a period of four weeks from the date of intimation of the decision to the appellants.

(III) Corporation shall decide the appellant's application for retention/regularization within six weeks from today.

(IV) Appellants are permitted to withdraw the suit with liberty to pursue the application for regularization/retention.

6. All the rival contentions of the parties raised on merits are kept open.

7. Appeal is disposed of in the aforesaid terms.

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

(GAURI GODSE, J.)