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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 104 OF 2025
WITH
INTERIM APPLICATION NO. 1776 OF 2025**

Shashikant Maruti Meher and Others ... Appellants/Applicants

Vs.

MCGM and Others ... Respondents

Mr. A. R. Kapadia i/b. Ms. Megha Padwal for the
Appellants/Applicants.

Mr. Som Sinha a/w. Mr. Om Suryavanshi for the Respondent-BMC.

CORAM : GAURI GODSE, J.

DATE : 18th FEBRUARY 2025

ORDER :

1. Heard learned counsel for the appellants. This appeal is filed to challenge refusal to grant interim injunction in a suit for simplicitor injunction.

2. Learned counsel for the appellants submits that the only prayer in the suit is to restrain the defendants from demolishing the suit premises without following due process of law. He submits that in the year 2020-21 the earlier notice issued under Section 351 of the Mumbai Municipal Corporation Act of 1988 ("The MMC Act") was partially implemented and part of the plaintiffs' structure were

demolished. He submits that without following due process the corporation has attempted to demolish the remaining structure. He therefore submits that the plaintiffs would be entitled to relief restraining respondents from demolishing the suit structure without following due process of law.

3. He further submits that the 24 hours notice issued by the corporation on 3rd January 2024 is an illegal action and the corporation is under obligation to follow the procedure under Section 351 of the MMC Act.

4. I have perused the papers of the appeal. The suit is for simplicitor injunction restraining the corporation from taking any action without following due process of law. Admittedly, the notice under Section 351 was issued on 13th February 2019 and the plaintiffs structure were demolished.

5. Learned counsel for the plaintiffs has argued that the demolition date mentioned in the notice dated 3rd January 2024 is incorrect and the demolition had taken place in the year 2019. However, the oral argument made on behalf of the appellants do not find place in the pleadings. Hence, in the absence of any such pleadings, the contention raised on behalf of the appellants cannot be considered in this appeal.

6. There is no dispute that the notice under Section 351 was already issued. The notice dated 3rd January 2024 calling upon the plaintiffs to remove unauthorised reconstruction carried out after the demolition of 4th January 2024, is not challenged by the plaintiffs. Hence, at this stage it cannot be said that due process of law is not followed by the respondents.

7. The demolition already taken place is not disputed by the plaintiffs. There is nothing shown on record to indicate that pursuant to the earlier notice the entire structure was not demolished and part of the structure were still remaining. The grounds raised on behalf of the appellants in this appeal are not supported by any pleadings. Hence, in the absence of any such pleadings, no fault can be found in the impugned order refusing interim injunction which is a discretionary relief.

8. The appeal is devoid of any merits. Hence, appeal is dismissed.

9. In view of dismissal of the appeal, interim application is disposed of as infructuous.

[GAURI GODSE, J.]