

rrpillai

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 173 OF 2025
WITH
INTERIM APPLICATION NO. 3684 OF 2025**

Sandeep Indrakumar Tiwari ... Appellant/Applicant

Vs.

Maharashtra Housing and Area ... Respondents
Development Authority

Mr. Ashok M. Saraogi a/w. Ms. Priti R, Mr. Vikas Tiwari and Mr.
Rohit Gupta for the Appellant/Applicant.

Mr. Satyajeet P. Dighe for the Respondent – MHADA.

CORAM : GAURI GODSE, J.

DATE : 28th MARCH 2025

ORDER :

1. Heard learned counsel for the parties. The appeal is taken up for final disposal. This appeal is preferred by the plaintiff to challenge refusal to grant ad-interim relief. Suit is filed to challenge the action taken by MHADA under Section 55 and 52 read with Section 53 of The Maharashtra Regional and Town Planning Act, 1966 ["MRTP Act"].

2. Learned counsel for the appellant submits that there is no unauthorised construction as alleged by MHADA. He submits that

the plaintiff's structure is protected under the rehabilitation scheme. He relies upon Annexure II prepared by the slum authorities holding the plaintiff eligible for permanent alternate accommodation.

3. Learned counsel for MHADA submits that initially when the petitioner had filed a writ petition in this court, the appellant was granted liberty to approach the appropriate authority. He therefore submits that the appellant was required to approach the slum authorities.

4. The notice issued by MHADA is for demolition and therefore suit is filed before the civil court to challenge the notice. The respondent - MHADA has already filed reply and notice of motion is yet to be heard. Considering the rival pleadings of both the parties any further reasons recorded by this court would prejudice the rival contentions of the parties on merits in the pending notice of motion.

5. Considering the documents relied upon by the appellant, it is necessary that the motion is heard finally after considering the documents relied upon by both the parties.

6. At this stage, the appellant's structure needs to be protected. by way of ad-interim relief in view of the plaintiff's structure having been included as eligible under Annexure II.

7. Hence the appeal is allowed by passing following order :

(i) The impugned order dated 6th March 2025 passed in S.C.Suit No. 532 of 2025 is quashed and set aside.

(ii) The notice of motion be heard on its own merits uninfluenced by any observation in this order.

(iii) The rival contention of the parties on merits are kept open.

(iv) During the pendency of the notice of motion no coercive action to be taken against the appellant for implementing the notice and the order impugned in the suit.

(v) The appeal is allowed in the aforesaid terms.

(vi) In view of the disposal of the appeal, interim application is disposed of as infructuous.

(vii) Unnecessary adjournments shall not be granted. The parties shall co-operate in early disposal of the notice of motion.

[GAURI GODSE, J.]