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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 181 OF 2025
WITH
INTERIM APPLICATION NO. 3840 OF 2025
IN
APPEAL FROM ORDER NO. 181 OF 2025**

Aesteiron Steels LLP ... Appellant/Applicant
vs.

Municipal Corporation of Greater Mumbai
through Legal Department and Anr ... Respondents

Mr. Karl Tamboly a/w. Ms. Aneesa Cheema a/w. Mr. Kaustubh Patil
for Appellant/Applicant.

Mr. Om. Suryavanshi for Respondent-BMC.

CORAM : GAURI GODSE, J.

DATED : 13th MARCH 2025

ORDER:

1. Not on board. Taken up on the production board.
2. This appeal is urgently filed and circulated to challenge the order passed by the City Civil Court refusing to grant ad interim relief. The suit is filed to challenge the notice under Section 351 of the Mumbai Municipal Corporation Act, 1888. Pending the suit, a notice of motion is filed seeking protection against demolition.

3. Learned counsel for the appellant submits that initially regularisation proposal was rejected on 10th September 2024, however, it is resubmitted as per the provision of Development Control and Promotion Regulation, 2034. He submits that resubmitted proposal is recorded as seen on the website and the same is pending. Learned counsel for the appellant relies upon the print out of the status of the proposal annexed to the appeal.

4. I have perused the remark. Prima facie, it appears that the proposal is resubmitted and is still pending. Notice of Motion is still pending before the City Civil Court. The corporation is yet to file the reply to notice of motion. In the event, the proposal is still pending, the appellant would be entitled to protection till the notice of motion is heard.

5. Learned counsel for the corporation submits that the reply will be filed to the notice of motion on the next date including intimating the status of the resubmitted proposal. The next date before the City Civil Court for filing a reply is 21st March 2025.

6. In view of the aforesaid, I see no reason to refuse the temporary protection to the appellant till the notice of motion is heard.

7. In view of the submissions made on behalf of the appellant,

prayer for interim relief will have to be decided after considering corporation's reply and more particularly, the response to the regularisation proposal which is pending.

8. Since the notice of motion is still pending for reply, I do not find it appropriate to record any further reason on the merits of the appellant's contentions. Any further reason recorded by this court, is likely to prejudice the rival contentions of the parties on merits in the pending notice of motion.

9. Hence, in view of the aforesaid reasons, the appeal is allowed by passing the following order:

- I) The impugned order dated 12th March 2025, refusing to grant ad interim relief is quashed and set aside.
- II) Pending notice of motion in L.C. Suit No. 2039 of 2023, no coercive action be taken against the plaintiff/appellant in respect of the suit structure.
- III) The notice of motion shall be decided on its own merits after considering the reply of the corporation, uninfluenced by the observations made in the impugned order and the observations made in this order.
- IV) The rival contentions of all parties on merits are kept

open.

10. Appeal from order is allowed in the aforesaid terms.

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

12. It is clarified that unnecessary adjournments shall not be granted and parties shall cooperate for earlier disposal of the notice of motion.

(GAURI GODSE, J.)