

rrpillai

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO. 198 OF 2025
WITH
INTERIM APPLICATION NO. 6489 OF 2025**

Mr. Lallan Khan Shammu Khan ... Appellant/Applicant

Vs.

Municipal Corporation of Greater ... Respondent

Mumbai through Asst. Engineer

(B & F) L Ward.

Mr. A. M. Saraogi for the Appellant/Applicant.

Mr. Om Suryavanshi for the Respondent-BMC.

Mr. Sachin B. Beldar, Assistant Engineer (B & F) L Ward.

CORAM : GAURI GODSE, J.

DATE : 26th MARCH 2025

ORDER :

1. This appeal is filed by the plaintiff to challenge dismissal of the notice of motion seeking injunction restraining the corporation from implementing the impugned notice issued under Section 354A of the Mumbai Municipal Corporation Act, 1988 ("MMC Act").

2. Learned counsel for the appellant submits that the allegation of unauthorised construction as per the impugned notice was above the existing ground plus one structure belonging to the plaintiff. He

submits that even according to the corporation's statement as recorded on 30th April 2019 before the City Civil Court the impugned notice was only with regard to the construction above ground plus first floor. He submits that in view of the statement made on behalf of the corporation, ad-interim relief was granted. He, however, submits that at the time of deciding the notice of motion finally, the motion is dismissed by observing that no protection is necessary in view of the statement made on behalf of the corporation on 30th April 2019.

3. Learned counsel for the appellant however apprehends that based on the impugned notice the action could not be taken with regard to the ground plus first floor structure.

4. Learned counsel for the corporation on instructions submits that pursuant to the impugned notice the unauthorised construction on the first floor is already removed. He has placed on record report to that effect. The report dated 30th January 2019 is taken on record. He therefore submits that the impugned notice stands implemented and therefore nothing survives in the appeal and suit.

5. In view of the aforesaid, nothing remains for further consideration in the appeal. In view of the above, appeal is disposed of by passing following order :

(i) In view of the report dated 30th January 2019 stating that the impugned notice is already implemented, nothing further survives for consideration in this appeal. Hence, appeal is disposed of as infructuous.

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

[GAURI GODSE, J.]