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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO. 238 OF 2025
WITH
INTERIM APPLICATION NO. 7334 OF 2025
IN
APPEAL FROM ORDER NO. 238 OF 2025**

Girish Sundarji Karia

.....Appellant

Vs.

Municipal Corporation of Greater Mumbai
Thr. Its Asst. Municipal Commissioner
T-Ward

.....Respondent

Mr. Vikram N. Walawalkar i/b Mr. Amey C. Sawant for the appellant
Mr. Om Suryawanshi for respondent-BMC
Mr. Rajendra Barawade Jr. Eng. (B&F) 'T' Ward

CORAM : GAURI GODSE, J.

DATE : 16th APRIL 2025

ORDER:

1. Heard learned counsels for the parties. This appeal is preferred by the plaintiff to challenge refusal to grant ad-interim relief. The suit is filed to challenge notice under Section 351 of The Mumbai Municipal Corporation Act ('the said Act') and the speaking order. The plaintiff had filed a notice of motion seeking protection against demolition based on the impugned notice and the speaking order.

2. Learned counsel for the appellant has tendered an affidavit-cum-

undertaking dated 16th April 2025. The affidavit-cum-undertaking states that the appellant had filed a regularisation application on 9th April 2019. The affidavit further states that the appellant is willing to file online proposal for regularisation within four weeks. The affidavit further states that if the regularisation proposal is rejected by the Corporation, the appellant would remove the unauthorised construction.

3. The affidavit-cum-undertaking dated 16th April 2025 is taken on record. The statements made in the affidavit are accepted as undertakings to this Court.

4. In view of the undertakings given by the appellant, learned counsel for the appellant submits that the suit structure be protected for a limited period to enable the appellant to apply for regularisation. He submits that the protection be extended for a further period in the event the regularisation application is rejected by the Corporation. He further submits that the undertaking for removal of the unauthorised construction, in the event regularisation proposal is rejected, be accepted subject to the appellant's right to challenge the rejection order.

5. Learned counsel for the Corporation submits that it may be clarified that if regularisation application is not filed as per the undertaking given, the Corporation will be at liberty to implement the impugned notice and the speaking order.

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

ORDER

I. The affidavit-cum-undertaking dated 16th April 2025 is accepted subject to the appellant's right to challenge the decision of the regularisation proposal, if adverse to the appellant.

II. The undertakings in the affidavit are accepted as undertakings to this Court. The appellant is permitted to file regularisation proposal within four weeks from today.

III. The Corporation shall not take any coercive action against the appellant for implementing the impugned notice and the speaking order for a period of four weeks and during the pendency of the regularisation proposal, if filed within four weeks.

IV. If regularisation proposal is rejected, the appellant would be entitled to challenge the rejection as permissible in law.

V. If the regularisation application is rejected, the impugned notice and the speaking order shall not be implemented for a period of four weeks from the date of decision of the regularisation proposal intimated to the appellant.

VI. If regularisation application is not filed within four weeks from today, the Corporation would be entitled to implement the impugned notice and the speaking order.

VII. If regularisation application is filed within four weeks, same shall be decided within eight weeks from the date of filing of proposal.

7. The appeal is disposed of in aforesaid terms.

8. In view of disposal of appeal, Interim Application No. 7334 of 2025 is disposed of as infructuous.

[GAURI GODSE, J.]