

R. Dilwale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO.341 OF 2025
WITH
INTERIM APPLICATION NO.8718 OF 2025
WITH
INTERIM APPLICATION NO.8717 OF 2025**

Mukesh Ramesh Bajaj

.....Appellant

Vs.

Brihanmumbai Municipal Corporation and Anr.Respondents

Mr. Yashudeep Deshmukh with Ms. Babita Kesharwani i/by K.
Amol, Advocates for the Appellant
Mr. Om Suryavanshi i/by Mr. Komal Punjabi, Advocate for the
Respondents

CORAM : GAURI GODSE, J.

DATE : 23rd JUNE 2025

ORDER:

1. The affidavit-cum-undertaking dated 23rd June 2025 tendered on behalf of the appellant in the first session is taken on record and marked 'X-1' for identification. It is clarified that this affidavit-cum-undertaking is in breach of the earlier order passed by this Court; hence, the same has not been accepted. However,

the affidavit-cum-undertaking marked as 'X-1' shall be kept in the record of this appeal.

2. Pursuant to the order dated 18th June 2025, learned counsel for the applicant, in the second session, has tendered a fresh affidavit-cum-undertaking dated 23rd June 2025, signed by the appellant and the family members occupying the offending structure. This affidavit-cum-undertaking dated 23rd June 2025 is taken on record and marked 'X' with today's date for identification. The affidavit-cum-undertaking states that the appellant and his family members who have signed the affidavit-cum-undertaking, shall remove the offending structure within three months from today. The affidavit-cum-undertaking further states that without applying for permission to reconstruct, they shall not carry out any construction.

3. The undertakings on behalf of the appellant and the family members who have signed the affidavit-cum-undertaking are accepted as an assurance and undertakings to this Court. It is clarified that the offending structure to be removed is the structure described in the impugned notice dated 17th October 2024 (page

79 of this appeal). It is further clarified that the undertaking not to carry out construction without applying for permission from the Corporation would mean that unless permission is granted, the appellant or the family members who have filed affidavit-cum-undertaking shall not carry out any construction.

4. It is necessary to record that by order dated 14th January 2025, the appellant was granted protection on an affidavit-cum-undertaking that he would apply for the regularisation of the offending structure. The affidavit-cum-undertaking has not been complied with. Hence, the Corporation issued a fresh notice, which is challenged by the appellant in the present suit. It is therefore clarified that if there is any breach of the affidavit-cum-undertaking given today, the appellant and the occupants who have signed affidavit-cum-undertaking dated 23rd June 2025 would be liable for an action under the Contempt of Courts Act for committing contempt of this Court.

5. It is further clarified that if there is non-compliance of the affidavit-cum-undertaking as recorded above, the Corporation shall be at liberty to take action as per the notice dated 17th

October 2024 (page 79 of this appeal) and notice dated 3rd May 2025 (page 94 of this appeal).

6. In view of the aforesaid, nothing survives in the pending suit. Hence, the appellant is permitted to withdraw the LC Suit No. 1046 of 2025 pending in the City Civil Court.

7. The Appeal From Order is disposed of in the aforesaid terms.

8. In view of the disposal of the appeal, all pending applications are disposed of as infructuous.

[GAURI GODSE, J.]

RAMESHWAR
LAXMAN
DILWALE

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