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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**APPEAL FROM ORDER NO. 369 OF 2025
WITH
INTERIM APPLICATION NO. 9188 OF 2025
INTERIM APPLICATION NO. 9187 OF 2025**

Baban Visharam Kadam
Constitute Attorney Holder
of Mr. Aslam Ahmed Khan

.....Appellant

Vs.

Municipal Corporation of Greater Mumbai
and ors

.....Respondents

Mr. S. K. Dubey a/w Mr. Mukesh Dubey for the appellant
Ms. Neeta Jadhav i/b Ms. Komal Punjabi for respondent BMC
Mr. Ranjit Chavan JE (B&F) 'L' Ward

CORAM : GAURI GODSE, J.

DATE : 4th JULY 2025

ORDER:

1. Heard learned counsel for the appellant. This appeal is filed to challenge the refusal of ad-interim relief by the City Civil Court. Learned counsel for the appellant is unable to point out whether after the notice under Section 354A of The Mumbai Municipal

Corporation Act, 1888 ('the MMC Act') was issued on 12th August 2024 any reply was filed on behalf of the appellant. It appears that since there was no response, the Corporation issued speaking order on 2nd September 2024. Thereafter on 10th February 2025, the appellant has filed a reply to the notice.

2. Learned counsel for the appellant submits that there is a construction permission granted to repair the building. He relies upon the repair permission dated 29th February 2024. The appellant claims to be owner of the property and contends that there is no unauthorised construction carried out.

3. The notice under Section 354A of the MMC Act to R.K. International, alleging that unauthorised construction is carried out on the terrace.

4. Learned counsel for the Corporation relies upon inspection report dated 12th August 2024. She submits that the photograph in the inspection report clearly shows that unauthorised construction is carried out on the terrace. She submits that after the reply of 10th February 2025, a fresh speaking order is passed on 3rd March 2025.

5. Learned counsel for the appellant contends that after the speaking order is passed, one more fresh reply is filed by the appellant.

6. Notice under Section 354A of the MMC Act is issued to R.K. International alleging unauthorised construction on the terrace. The appellant claims to be owner of the property and contends that R.K. International is occupying small portion of the building as the appellant's licensee. The appellant contends that R.K. International has not carried out any unauthorised construction. However, R.K. International has not filed any affidavit stating that no construction is carried out as alleged in the notice of the Corporation.

7. In view of the aforesaid, I do not find any error in refusing to grant ad-interim relief. The Notice of Motion is listed before the City Civil Court on 11th July 2025.

8. Learned counsel for the Corporation submits that detailed reply shall be filed on the next date.

9. Considering the aforesaid factual aspects, inspection report and the short reply filed by the Corporation, I do not see any prima

facie case in favour of the appellant to grant ad-interim relief.

10. The appeal is therefore, dismissed.

11. The City Civil Court shall decide Notice of Motion on its own merits, uninfluenced by any observations made in this order.

12. In view of the disposal of the appeal, pending applications, if any, are disposed of as infructuous.

[GAURI GODSE, J.]

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