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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 435 OF 2025
WITH
INTERIM APPLICATION NO. 10589 OF 2025
IN
APPEAL FROM ORDER NO. 435 OF 2025

Ranjeeta Lalchand Khatri and Anr. .. Appellants

Versus

Municipal Corporation of Greater Mumbai,
Through Designated Officer, Executive Engineer .. Respondent

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- Mr. Suresh Sabrad a/w. Mr. Amey Sawant, Mr. Pratik Sabrad, Ms. Neha Parte and Ms. Eshwaree Kudalkar, Advocates for Appellants.
- Ms. Neeta Jadhav, Advocate i/by Ms. Komal Punjabi for Respondent - MCGM.
- Mr. Sujit Bhojane, A.E., BF, T-ward present.

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 11, 2025.

P.C.:

1. Heard Mr. Sabrad, learned Advocate for Appellants and Ms. Jadhav, learned Advocate for Respondent – MCGM.

2. *Prima facie* Mr. Sabrad has taken me through the original Grant appended at page No.88 of the Appeal From Order in respect of allotment of 82.8 square meters structure nomenclatured as Room No.2 in favour of Plaintiffs by the Government. The impugned action is invoked by the Corporation by virtue of notice under Section 354A of the Mumbai Municipal Corporation Act, 1888 dated 13.06.2025, *inter*

alia, alleging that Plaintiffs have carried out unauthorized construction. Reply is filed to the said notice dated 16.06.2025 but apprehending coercive action, Plaintiffs have approached the Trial Court. Initially on 19.06.2025, considering the fact that the structure is a dwelling house of Plaintiffs, ad-interim order was granted and Mr. Sabrad would inform the Court that the said ad-interim order is continued till today.

3. The impugned order is dated 26.06.2025. Subsequently on 01.07.2025, ad-interim relief has been vacated and refused prompting the Plaintiff to file the present Appeal From Order. Notice of Motion filed by the Plaintiffs is however pending before the Trial Court.

4. The need and necessity that has arisen for Plaintiffs to rush to this Court is only in view of the apprehension of coercive action in view of refusal of ad-interim relief. Considering the fact that the Notice of Motion is pending before the Trial Court, it would not be appropriate for this Court to give its imprimatur on facts while deciding a challenge to the rejection of ad-interim relief. Since there are admittedly *prima facie* disputed questions of facts asserted by Mr. Sabrad which are vehemently denied by Ms. Jadhav, learned Advocate for MCGM, it would be appropriate to direct continuation of ad-interim relief dated 19.06.2025 until the determination of Notice of Motion by the learned Trial Court.

5. Needless to state that this Court has not opined on any of the merits of the matter and all contentions of both parties are expressly kept open.

6. Learned Trial Court shall determine Notice of Motion No.3211 of 2025 as expeditiously as possible and in any event within a period of four months from today.

7. If Plaintiffs desire to file any Additional documents, the same shall be permitted by the learned Trial Court to be filed for determination of the said Notice of Motion. Plaintiffs have vehemently argued reliance on the Circular dated 24.04.2025 issued by the Corporation, *inter alia*, laying down guidelines against unauthorized construction. Plaintiffs shall be entitled to refer and rely upon the same before the Trial Court. Notice of Motion shall be determined strictly in accordance with law after hearing the Plaintiffs and the Corporation.

8. Though it is argued by the Plaintiffs that the Competent Authority before passing the impugned order dated 26.06.2025 have not given an opportunity of hearing, learned Trial Court shall also consider this grievance of the Plaintiffs and accordingly decide the Notice of Motion in accordance with law on its own merits.

9. All contentions of the parties are expressly kept open.

10. In view of the above *prima facie* observations, the ad-interim relief granted by the Trial Court dated 19.06.2025 is directed to be continued for a further period of four months from today until the Notice of Motion is decided and for a further period of two weeks thereafter, if the order in Notice of Motion is adverse to the Plaintiffs.

11. In view of the above observations, Appeal From Order stands allowed and disposed.

12. Interim Application is also accordingly disposed.

[MILIND N. JADHAV, J.]

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