IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.957 OF 2026
WITH
INTERIM APPLICATION NO.7625 OF 2026

Pradeep Motumal Karamchandani,
Shop nos.1, 2 and 3, Ground floor,
Khar Seven Sars Co-op.Hsg.Soc Ltd.,
Plot No.495, TPS III, Junction of 24th Road
and 33rd Road, Khar (W), Mumbai-400052. Appellant

versus

1. Municipal Corpn of Greater Mumbai.
2. The Designated Officer/Executive
Engineer (B&F), Ward H/West,
MCGM, Mumbai. Respondents

AND
APPEAL FROM ORDER NO.958 OF 2026
WITH
INTERIM APPLICATION NO.7624 OF 2026

Farook Yusuf Kadawala,
Shop Nos.7 & 8,
Khar Seven Sars Co-op.Hsg.Soc Ltd.,
Plot No.495, TPS III, Junction of 24th Road
and 33rd Road, Khar (W), Mumbai-400052. Appellant

versus

1. Municipal Corpn of Greater Mumbai.
2. The Designated Officer/Executive
Engineer (B&F), Ward H/West,
MCGM, Mumbai. Respondents

Mr.Amogh Singh with Mr.Rutuparn Umesh Deo i/by Mr.Hardik Desai for Appellants.

MsNeeta Jadhav i/by Ms.Komal Punjabi for Respondent-MCGM.

Mr.Aakash Mukesh Patil, J.E, B&F Deptt, H/West Ward, MCGM, present.

MANISH SURESHRAO THATTE
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Date: 2026.10.01 18:51:56 +0530

CORAM : AARTI SATHE, J.

DATE : 1st October 2026

P.C.

1. These two Appeals from Order arise from a similar dispute namely demolition of certain shops in the building namely Khar Seven Stars Co-op.Hsg.Soc Ltd., Plot No.495, TPS III, Junction of 24th Road and 33rd Road, Khar (W), Mumbai-400052 and hence this common order would conveniently dispose of both the Appeals from Order.

2. The order under challenge in Appeal from Order No.957 of 2026 is an order dated 24th September 2026 passed by the City Civil Court, Dindoshi, Mumbai (`Trial Court') in Notice of Motion No.3069 of 2026 in L.C.Suit No.1886 of 2026 and the order under challenge in Appeal from Order No.958 of 2026 is an order dated 23rd September 2026 passed by the Trial Court, in Notice of Motion No.3119 of 2026 in L.C.Suit No.1959 of 2026 (`impugned orders'). By way of the impugned orders, the Trial Court has dismissed the aforesaid two Notice of Motions and refused to extend interim protection in respect of the structures namely the shops and being aggrieved by the aforesaid, the Appellants have preferred present Appeals from order.

3. Learned counsel on behalf of the Appellants has submitted that the Trial Court has erred in not taking into consideration that Section 53(1) of the Maharashtra Regional and Town Planning Act (`MRTP Act') explicitly mandates that the planning authority may, serve on the owner a notice requiring him, within such period, being not less than one month, as may be specified, therein after the

service of the notice, to take such steps as may be, specified in the notice. He has further submitted that this mandate has not been followed by the Municipal Corporation of Greater Mumbai (`MCGM') and the Trial Court has failed to take into consideration the aforesaid provision. He has further submitted that the Suit shops have been in existence since 1962-63 and further up to 2008 there were no final/ sanctioned plans which were traceable in respect thereto. He has submitted that considering the aforesaid and also considering the decision of the Supreme Court in **Directions in the matter of Demolition of Structures, In Re**[1], the Supreme Court has laid down guidelines which the authorities are bound to follow before demolition of any structure. He has submitted that the aforesaid guidelines are as follows :

> "IX. Directions
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> 93. In order to allay the fears in the minds of the citizens with regard to arbitrary exercise of power by the officers/officials of the State, we find it necessary to issue certain directions in exercise of our power under Article 142 of the Constitution. We are also of the view that even after orders of demolition are passed, the affected party needs to be given some time so as to challenge the order of demolition before an appropriate forum. We are further of the view that even in cases of persons who do not wish to contest the demolition order, sufficient time needs to be given to them to vacate and arrange their affairs. It is not a happy sight to see women, children and aged persons dragged to the streets overnight. Heavens would not fall on the authorities if they hold their hands for some period.
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> 94. At the outset, we clarify that these directions will not be applicable if there is an unauthorised structure in any public place such as road, street, footpath, abutting railway line or any river body or water bodies and also to cases where there is an order for demolition made by a court of law.
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> A. Notice
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> 94.1. No demolition should be carried out without a prior show-cause notice returnable either in accordance with the time provided by the local municipal laws or within 15 days' time from the date of service of such notice, whichever is later.

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94.2. The notice shall be served upon the owner/occupier by a registered post A.D. Additionally, the notice shall also be affixed conspicuously on the outer portion of the structure in question.

94.3. The time of 15 days, stated herein above, shall start from the date of receipt of the said notice.

94.4. To prevent any allegation of backdating, we direct that as soon as the show-cause notice is duly served, intimation thereof shall be sent to the office of Collector/District Magistrate of the district digitally by email and an auto generated reply acknowledging receipt of the mail should also be issued from the office of the Collector/District Magistrate. The Collector/DM shall designate a Nodal Officer and also assign an email address and communicate the same to all the municipal and other authorities in charge of building regulations and demolition within one month from today.

94.5. The notice shall contain the details regarding:

(a) The nature of the unauthorised construction.
(b) The details of the specific violation and the grounds of demolition.
(c) list of documents that the noticee is required to furnish along with his
(d) The notice should also specify the date on which the personal hearing is fixed and the designated authority before whom the hearing will take place.

94.6. Every municipal/local authority shall assign a designated digital portal, within 3 months from today wherein details regarding service/pasting of the notice, the reply, the show-cause notice and the order passed thereon would be available.

B. Personal hearing

94.7. The designated authority shall give an opportunity of personal hearing to the person concerned.
94.8. The minutes of such a hearing shall also be recorded.

C. Final order

94.9. Upon hearing, the designated authority shall pass a final order.
94.10. The final order shall contain:

(a) The contentions of the noticee, and if the designated authority disagrees with the same, the reasons thereof.
(b) As to whether the unauthorised construction is compoundable, if it is not so, the reasons therefor.
(c) If the designated authority finds that only part of the construction is unauthorised/non-compoundable, then the details thereof.
(d) As to why the extreme step of demolition is the only option available and other options like compounding and demolishing only part of the property are not available.

D. An opportunity of appellate and judicial scrutiny of the final order

94.11. We further direct that if the statute provides for an appellate opportunity and time for filing the same, or even if it does not so, the order will not be implemented for a period of 15 days from the date of receipt thereof. The order shall also be displayed on the digital portal as stated above.

94.12. An opportunity should be given to the owner/occupier to remove the unauthorised construction or demolish the same within a period of 15 days. Only after the period of 15 days from the date of receipt of the notice has expired and the owner/occupier has not removed/demolished the unauthorised construction, and if the same is not stayed by any appellate authority or a court, the authority concerned shall take steps to demolish the same. It is only such construction which is found to be unauthorised and not compoundable shall be demolished.

94.13. Before demolition, a detailed inspection report shall be prepared by the authority concerned signed by two panchas.

EE. Proceedings of demolition

4.14. The proceedings of demolition shall be videographed, and the authority concerned shall prepare a demolition report giving the list of police officials and civil personnel that participated in the demolition process. Video recording to be duly preserved.

94.15. The said demolition report should be forwarded to the Municipal Commissioner by email and shall also be displayed on the digital portal.

95. Needless to state that the authorities hereinafter shall strictly comply with the aforesaid directions issued by us.

96. It will also be informed that violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution.

97. The officials should also be informed that if the demolition is found to be in violation of the orders of this Court, the officer/officers concerned will be held responsible for restitution of the demolished property at his/their personal cost in addition to payment of damages."

4. Learned counsel on behalf of the Appellants therefore submitted that in the facts of the present case, the speaking order dated 3rd September 2026 passed by Respondent no.2 which has been passed in pursuance of notices dated 27th July 2026 under Section 53(1) of the MRTP Act issued by Respondent no.2, has not followed the aforesaid directions of the Supreme Court and the same has not been

considered even by the Trial Court, and in view thereof, the rejection of the Notices of Motion by the Trial Court in the facts of the present case, ought to be set aside. He has further submitted that the Trial Court has erred in coming to the conclusion that the Appellants have not made out a prima facie case and the Appellants have violated the approved plans and amalgamated the shops and carried out unauthorized extension thereto. He has submitted that the aforesaid finding is an erroneous finding inasmuch as the Appellants were never supplied with the approved and sanctioned plans and the Suit shops are in existence since 1962-63. Learned counsel for the Appellants states that part demolition has taken place and in view thereof, the structures which have been specified in the notices partly are still standing at the relevant place.

5. *Per contra*, learned counsel for MCGM has submitted that the impugned order of Trial Court is a well reasoned order and indeed the Appellants have violated the approved plans and carried out amalgamation of the shops which was not permissible. She has also submitted before this Court today that pursuant to the notices dated 27th July 2026 and under Section 53(1) of MRTP Act issued by Respondent no.2 and the speaking order dated 3rd September 2026 passed by Respondent no.2, the MCGM has carried out part demolition in respect of the Suit shops. She has placed on record photographs to that effect and the same are taken on record and marked "X" for identification.

6. Be that as it may, both the parties are *ad idem* in respect of the fact that in respect of demolition that has taken place so far of the Suit shops, further demolition need not be carried out and status-quo as of today be maintained and

the Trial Court be directed to consider all the aforesaid contentions raised by the Appellants and the MCGM, while deciding the Suit as expeditiously as possible.

7. Considering the aforesaid submissions made by learned counsel for the parties, this Court is of the view that without delving into the merits of the matter and without taking any prima facie view, considering that the demolition has taken place, the Trial Court is directed to decide both the L.C Suits as expeditiously as possible and preferably within a period of three months from the date of uploading of this order. Parties are directed not to take adjournments at the time of trial of the Suits. All contentions of the parties are expressly kept open.

8. Needless to observe that this Court has not expressed any prima facie view nor expressed any opinion on the merits of the case and the Suits shall be decided in accordance with law and on merits.

9. Till disposal of both the L.C Suit Nos.1886 of 2026 and 1959 of 2026, status-quo as of today shall be maintained.

10. Both the Appeals from Order stand disposed of. No costs. Interim Applications do not survive and stand disposed of.

(AARTI SATHE, J.)