

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1192 OF 2026

IN

APPEAL FROM ORDER NO. 302 OF 2024

Mrs. Shaheen Mohammed Hayat Khan

...Applicant

V/s.

Municipal Corporation of Gr. Mumbai (MCGM) thr.

The Assistant Commissioner C W Ward & Anr.

...Respondents

Ms. Jennifer Sagayarajan, with Ms. Meera Thakkar, for the Applicant.

Ms. Neeta Jadhav, i/b Ms. Komal Punjabi, for the Respondent-MCGM.

CORAM : FARHAN P. DUBASH, J.

DATE : 15th APRIL 2026

P.C.:

1. The Applicant has moved a praecipe and sought urgent circulation which was granted at 3.00 pm.

2. When the matter was called out at 3.00 pm, Ms. Jennifer Sagayarajan, learned Counsel who appears for the Applicant submits that pursuant to the order dated 23rd March 2026, her client has received a notice dated 10th April 2026 (**impugned notice**) from the Respondent – Corporation under Section 488 of the Mumbai Municipal Corporation Act, 1988 (**MMC Act**) and states that by this notice, the Respondent - Corporation seeks to carry out demolition of the unauthorized/illegal structure, as more particularly set out in its earlier notice dated 2nd November 2023 (**Section 351 notice**) issued under Section 351 of the MMC Act.

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3. Ms. Sagayarajan further submits that despite the order dated 23rd March 2026, the representatives of the Municipal Corporation of Greater Mumbai (**MCGM**) and Maharashtra Housing and Area Development Authority (**MHADA**) have not carried out any joint inspection for the purposes of filing a report pursuant to the order dated 6th January 2026. She further submits that in such circumstances, the impugned notice dated 10th April 2026 is required to be stayed.

4. In response, Ms. Neeta Jadhav, learned Counsel who appears for the Respondent – Corporation invites my attention to the order dated 6th January 2026 and submits that the notice dated 10th April 2026 has been sent pursuant thereto and in compliance thereof which required MCGM to remove the illegalities/irregularities stated in the Section 351 notice which have not been removed by the Appellant despite the statement recorded in paragraph 1 of the said order. She therefore submits that the impugned notice which is scheduled to be executed tomorrow viz. on 16th April 2026 at 10.00 am ought not to be stayed.

5. Having considered the oral arguments made by the parties, it would be profitable to note the directions given by this Court in the order dated 6th January 2026 which are reproduced hereunder for ready reference:-

“1. The Advocate for the Appellant submits that they themselves shall remove all the irregularities/illegalities stated in the Notice dated 2nd November 2023 issued under section

351 by the BMC within a period of two weeks from today.

2. Within two days of removing the same they will inform the BMC who shall within one week of such intimation inspect the premises and make a report of the compliance. If the BMC finds that the illegalities/irregularities stated in notice have not been removed, they shall proceed to remove them within one week; without any further notice or intimation to the Appellants. The BMC shall file a compliance report in the Court within one week thereafter.

(emphasis supplied)

6. A perusal of the above order clearly reveals that the Respondent – Corporation is fully empowered to remove the illegalities/irregularities that are set out in the Section 351 notice which they find, have not been removed by the Applicant without any further notice or intimation to the Applicant. Notwithstanding this, the Respondent – Corporation has issued the impugned notice, a perusal of which reveals that they are only planning to act in furtherance of the directions given in the said order.

7. Considering the aforesaid, this Court declines to grant any reliefs in favour of the Applicant. The Respondent – Corporation shall proceed in furtherance of the impugned notice dated 10th April 2026. This is more so since, the Applicant (through her Advocate) had herself agreed (which statement is recorded in paragraph 1 of the said order dated 6th January 2026, and also reproduced above) that all the illegalities/irregularities that are set out in the Section 351 notice dated 2nd November 2023 would be removed by her. By this, she has *inter alia* confirmed all the illegalities/irregularities that are pointed out in the Section

351 notice and considering this concession already made by her, it would now not be open to question any of the said illegalities/irregularities.

(FARHAN P. DUBASH, J.)

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