

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 899 OF 2024

Jayakumar G. Nadar

...Appellant
(Orig. Plaintiff)

V/s.

Mumbai Municipal Corporation of
Greater Mumbai

... Respondents
(Orig. Defendant)

WITH
INTERIM APPLICATION NO. 15738 OF 2024
IN
APPEAL FROM ORDER NO. 899 OF 2024

Jayakumar G. Nadar

... Applicant
(Orig. Appellant)

IN THE MATTER BETWEEN

Jayakumar G. Nadar

...Appellant
(Orig. Plaintiff)

V/s.

Mumbai Municipal Corporation of
Greater Mumbai & Anr.

... Respondents
(Orig. Defendants)

Mr. Kunal Bhanage a/w. Akshay Pawar a/w. Vasim Siddiqui for the
Appellant/Applicant
Mr. Sachin Vajale for the Respondent - BMC
Mr. S.N. Chandrachood a/w. A.V. Pitre a/w. Ghadigaokar for Respondent no.2

CORAM : FARHAN P. DUBASH, J.

DATE : 16th MARCH 2026

P.C. :

1. The Appeal impugns an order dated 2nd December 2024. By the impugned order, the Notice of Motion No.930 of 2020 preferred by the original Plaintiff/Appellant herein was dismissed.
2. A perusal of paragraph nos.6 and 7 of the impugned order clearly reveals that the Trial Court appears to have proceeded on the basis that the sanctioned plan that is attached with the reply filed by Advocate Mr. Kunal Bhanage on behalf of the original Plaintiff/Appellant, dated 7th February 2019 (received on 8th February 2019), does not bear any signature or seal of the competent authority issuing the same.
3. Accordingly, the Trial Court has not considered the said sanctioned plan and the submission of the original Plaintiff/Appellant herein that the present construction is identical to the construction that is reflected in the said sanctioned plan has also not been considered.
4. On perusal of the sanctioned plan that is annexed at page 105 to the paper-book, it is clearly revealed that the same bears the stamp and seal of the issuing authority. Considering this, the Trial Court has erred in passing the impugned order by not considering the said plan.

5. In the circumstances, the present Appeal from Order is disposed of in terms of the following order:-

: O R D E R :

1. The impugned order dated 2nd December 2024 is hereby quashed and set aside.
2. The matter is remanded back to the Trial Court, who shall hear and dispose of the Notice of Motion No.930 of 2020 afresh, considering the documents submitted by the original Plaintiff/Appellant herein and in particular, the sanctioned plan that is annexed at page 105 of the Appeal paper-book and thereafter, the Trial Court shall pass a reasoned order thereon.
3. Appeal from Order is disposed of with no order as to costs.
4. Till the final disposal of the said Notice of Motion, and for a period of three weeks thereafter, if the outcome is against the original Plaintiff/Appellant herein, the ad-interim relief that is in operation today shall continue to operate.
5. By consent, it is agreed that whilst hearing the Notice of Motion No.930 of 2020, the newly added Defendant no.2 who was not impleaded on 2nd December 2024 at the time of the impugned order, shall also be heard. If the said Defendant no.2 is desirous of filing any reply to said Notice of Motion, the original Plaintiff/Appellant herein will be at liberty to file a response thereto.

6. All pending Interim Applications filed therein, if any, also stand disposed of in terms of this order, and all interim orders passed therein, if any, shall stand vacated.

(FARHAN P. DUBASH, J.)

Jyoti Pawar

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PRAKASH
PAWAR

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by JYOTI
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Date: 2026.03.24
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