

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 748 OF 2024
WITH
INTERIM APPLICATION NO. 14139 OF 2024

Ethashamuddin Shaikh ... Appellant

V/s.

The Municipal Corporation of
Greater Mumbai & Anr. ... Respondents

Mr. S. Shamim a/w. Mr. Murtuza Slatewala i/b. Shamim & Co. for Appellant.
Ms. Neeta Jadhav i/b. Ms. Komal Punjabi for Respondent – BMC.

CORAM : FARHAN P. DUBASH, J.

DATE : 1st APRIL 2026

P. C.:

1. The present Appeal challenges an order dated 14th August 2024 passed by the Trial Court in Notice of Motion no. 3244 of 2024. The said Notice of Motion was taken out by the original Plaintiff/Appellant herein challenging the notice issued under Section 351 of the Mumbai Municipal Corporation Act, 1888 dated 30th April 2024 and the subsequent speaking order dated 14th June 2024 passed by the Respondent – Corporation seeking a perpetual injunction restraining the Respondent – Corporation from enforcing the said notice and demolishing the notice structure.

2. Mr. S. Shamim, learned Counsel who appears on behalf of the Appellant has taken me through the facts of the case. He states that he had

produced all the necessary documentations before the Trial Court from which it could be ascertained that his structure was authorized. He invites my attention to the documents that have annexed at page no. 157 of the Appeal paper book. A perusal of the list of documents reveals that the earliest document that is sought to be relied upon by the Appellant/original Plaintiff is one dated 1991. Even the Assessment Bill which is sought to be relied upon, shows that the first assessment was done was on 1st April 1994. Admittedly, in the present case, in order for the Appellant/original Plaintiff to succeed, he was required to establish that his structure was authorized prior to the datum line viz., 1st April 1962. There are no documents whatsoever produced by the Appellant/original Plaintiff from which this position can be ascertained. The main thrust of the arguments advanced by Mr. Shamim before this Court is that the notice structure is situated at Village Borla, Motibag, which is included in slum cluster list 2024 at serial no. 1473. Mr. Shamim therefore submits that all structures in this slum are authorized and since they are in existence prior to 2000, the impugned notice could never have been issued by the Defendant – Corporation.

3. This Court is unable to accept the said contention raised by Mr. Shamim. Even if his statement were to be accepted, the original Plaintiff was still required to show that his structure was in fact authorized. The documents produced on record do not reveal this position. The impugned order is a well-reasoned order which considers all the submissions made by

the original Plaintiff. Mr. Shamim is unable to point out any infirmity with the same. Accordingly, this Court is not inclined to interfere with the said impugned order dated 14th August 2024, and the same is hereby confirmed. Accordingly, the captioned Appeal from Order is hereby dismissed.

4. All pending Interim Applications taken out in the present Appeal from Order if any, also stand disposed of in terms of this order, and all interim orders passed therein if any, shall stand vacated.

5. After the passing of this order, Mr. Shamim requests that the interim protection that has been operating in his client's favour since 18th July 2024 shall continue to operate for a period of four weeks from today since his client wishes to challenge this order. Accordingly, the protection granted earlier shall continue to operate till 29th April 2026.

(FARHAN P. DUBASH, J.)

Ajay Jadhav