

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO. 349 OF 2026
WITH
INTERIM APPLICATION NO. 2790 OF 2026
IN
APPEAL FROM ORDER NO. 349 OF 2026

Mrs. Radha Kanhaiya Sharma .. Appellant
Versus
The Municipal Corporation of Greater Mumbai .. Respondent

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- Mr. Sameer Shankar Kolge, Advocate for Appellant.
 - Mr. Sachin Vajale, Advocate for Respondent – BMC.
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CORAM : MILIND N. JADHAV, J.
DATE : APRIL 09, 2026.

P.C.:

1. Heard Mr. Kolge, learned Advocate for Appellant and Mr. Vajale, learned Advocate for Respondent – BMC.
2. Urgent intervention of the Court is sought in view of the ad-interim order passed by the learned Trial Court dated 18.03.2026. The alarming alacrity with which the Corporation has moved in the present case as also the learned Trial Court is *prima facie* seen from the cryptic order which has been passed by the learned Trial Court without giving or/and assigning any reasons. The sole reason given in the said order is also not justified on the face of record.

3. Plaintiff has issued a notice on 03.09.2011 and in furtherance of which speaking orders have been passed on 11.10.2011 and 22.03.2014, but thereafter no steps have been taken. During the Covid-19 period, in the year 2022 another speaking order is passed but no steps are taken whatsoever by the Corporation.

4. Corporation in its wisdom has issued the impugned notice dated 13.02.2026 for the same cause of action which is the subject matter of challenge in the suit proceedings filed by Plaintiff.

5. The learned Trial Court has opined that limitation is applied to the Plaintiff for challenging the impugned notices which have been issued 15 years back in the year 2011 and on that sole ground itself has refused ad-interim protection. Suit premises are situated on the 4th Floor of Mulji Jetha Cooperative Housing Society Limited, Princess Street, Shayamladas Gandhi Marg, Mumbai – 400 002. There are apparent disputed issues leading to filing of a private complaint against the premises of the Plaintiff, details of which are all stated by Plaintiff in the Suit plaint. There is a dispute which relates to the Kapadia Family who are the immediate neighbour of the Plaintiff. The predecessors of Plaintiff had purchased the suit flat from one of the members of the Kapadia Family. However in this background, the impugned action is taken against the Plaintiff for construction of an attic.

6. *Prima facie* on the basis of the aforesaid timeline, an arguable case is made out by Mr. Kolge for immediate interference of this Court. Considering that the impugned order which is passed is an ad-interim order and it is not passed on the merits of the matter, it would be appropriate in my opinion if the said order is set aside by giving the following directions:-

- (i) The impugned order dated 18.03.2026 stands quashed and set aside. No coercive action shall be taken against the suit premises in furtherance of the impugned notice dated 13.02.2026 or any of the previous notices or the speaking orders;
- (ii) Parties to the Suit proceedings shall complete their respective pleadings before the Trial Court. Affidavit-in-Reply shall be filed by the Corporation within a period of four weeks from today. Rejoinder, if any, is directed to be filed within four weeks thereafter;
- (iii) After the pleadings are completed, Notice of Motion No.1628 of 2026 shall be heard by the learned Trial Court in accordance with law and shall be decided on merits by passing appropriate reasoned speaking order;

- (iv) All contentions of the Plaintiff and Corporation are expressly kept open without giving any imprimatur on the facts of the case; and
- (v) No coercive steps shall be taken against the suit premises of the Plaintiff until the Notice of Motion is determined by the learned Trial Court and in the event if the said order in the Motion is adverse to Plaintiff, the same shall stand stayed for a further period of four weeks thereafter to enable the Plaintiff to take recourse to law.

7. With the above directions, Appeal From Order is disposed.
8. In view of disposal of Appeal From Order, pending Interim Application No.2790 of 2026 is accordingly disposed.

[MILIND N. JADHAV, J.]

Ajay

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