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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST) NO. 4742 OF 2026
WITH
INTERIM APPLICATION (ST) NO. 4743 OF 2026
IN
APPEAL FROM ORDER NO. 4742 OF 2026

Zaheda Nasim Shaikh	Appellant / Applicant .. (Orig. Plaintiff)
Versus	
The Municipal Corporation of Greater Mumbai	Defendant .. (Orig. Defendant)

.....

- Mr. S. K. Dubey, Advocate for Appellant / Applicant.

.....

CORAM : MILIND N. JADHAV, J.
DATE : FEBRUARY 18, 2026.

P.C.:

1. Not on Board. Mentioned by way of filing praecipe dated 18.02.2026. Perused the praecipe.

2. Heard Mr. Dubey, learned Advocate for Appellant / Applicant.

3. The *lis* in the present case *prima facie* emanates from a private non-cognizable complaint filed by the sister of Plaintiff on 31.01.2022, *inter alia*, with respect to the suit structure. Taking it forward and the complaint having also been filed by the Corporation, Corporation issued a speaking order dated 26.03.2022 to Plaintiff.

4. Allegation against the Plaintiff is that the Plaintiff has constructed vertically and extension with the help of MS angle, bricks masonry, ladi coba slab and AC sheet roof. A portion admeasuring 4.3 meters x 2.9 meters and having vertical height 2.6 meters. As usual precipitating action is taken by the Corporation seeking details of the sanctioned plan as on the datum line of the notice structure from Plaintiff which is the usual case, there is no reason for disregarding the structure of the Plaintiff save and except the extended part which is an acceptable position.

5. There are *prima facie* documents to show that the said structure was in existence since more than 3 decades. Preparative action is under Section 351 of the Municipal Corporation Act, as is evidence from the notice and the speaking order passed by the Designated Officer of the BMC. Having taken everything into cognizance the learned Court has not found favour with Plaintiff and has rather deemed the entire structure to be unauthorized.

6. In that view of the matter and after perusing the documents which are appended to the Appeal From order, an arguable case has been made out by Mr. Dubey for stay of the order dated 04.02.2026. The order dated 04.02.2026 stands immediately stayed.

7. Issue notice to Respondent – BMC. Humdast permitted.

8. In addition to Court notice, Appellant is permitted to serve copy of Appeal From Order, Interim Application and this order on Respondent – BMC and inform it about the next date of hearing by any permissible mode of service and file appropriate Affidavit of service with tangible proof thereof on or before the next date.

9. Respondent – BMC is directed to take cognizance of this order and file its Affidavit-in-Reply within a period of four weeks. Copy of the same shall be served on the other side in advance.

10. Rejoinder, if any, to be filed within two weeks thereafter.

11. Stand over to **23rd April, 2026**.

[MILIND N. JADHAV, J.]

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AJAY TRAMBAK UGALMUGALE

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Date: 2026.02.18 17:39:21 +0530