

in respect of the structure erected on the ground floor by using brick masonry wall and AC Sheet roof admeasuring 9.40 mtr X 3.0 mtr and also unauthorized horizontal extension of the said structure by using M.S. Grill and AC Sheet roof, without obtaining any permission from the Planning Authority.

4) The learned Counsel for the appellant – plaintiff submitted that there are number of documents which indicate that the notice structure is in existence since prior to datum line.

5) Attention of the Court was invited to the Agreement of Tenancy executed on 26th February, 1964, which indicates that an area admeasuring 744 sq.fts., came to be demised thereunder. Secondly, the Corporation had carried out a survey in which the notice structure was shown to have been erected beyond the building boundary line. Thirdly, in the site inspection report carried by the Slum Rehabilitation Authority it was indicated that the plot was partly affected with hutments or any other structure.

6) Attention of the Court was also invited to an order passed by the Court in R.A.D. Suit No. 509 of 2022 dated 4th November, 2022, whereby M/s. Sai Kaushal Buildcon through its partners the defendant therein was restrained from causing obstruction to the possession of the plaintiff over an area of 200 sq.ft.

7) The learned Counsel for the respondent, on the other hand, submitted that there is a discrepancy in the area of the structure in the documents relied upon by the plaintiff. Moreover, there is no material to show that those documents pertain to the notice structure.

8) From the perusal of the documents on record, it seems that the notice structure has been in existence since long. The documents placed on record, *prima facie*, indicate that the legality and validity of the impugned notice requires consideration. If the plaintiff is non-situated at an ad-interim stage, before the matter is considered, the plaintiff would suffer an irreparable loss.

9) Hence, issue notice to the respondents, returnable on 26th April, 2023.

10) Mrs. Tondvalkar, the learned counsel waives notice for respondent Nos. 1 and 2.

11) In the meanwhile, there shall be an ad-interim stay in terms of prayer clause (a) of the Application.

[N. J. JAMADAR, J.]