

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER (ST) NO. 37992 OF 2025
WITH
INTERIM APPLICATION (ST) NO. 37993 OF 2025

Baby Krishna Shetty

Appellant

.. (Org. Plaintiff)

Versus

The Municipal Corporation of Greater Mumbai

Respondent

.. (Org. Defendant)

.....

- Mr. P.J. Thorat i/by Mr. J.S. Yadav, Advocates for Appellant

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CORAM : MILIND N. JADHAV, J.

DATE : NOVEMBER 29, 2025

P. C.:

1. Not on board. Mentioned by way of filing a praecipe dated 29.11.2025 due to exigency expressed by Mr. Thorat, learned Advocate for Appellant - Org. Plaintiff.

2. Present Appeal from Order (AO) along with Interim Application is filed in a great hurry and verified yesterday in view of the notice issued to Appellant - Plaintiff informing him that the Corporation has arranged for police protection to demolish the notice structure on 01.12.2025. Copy of that letter dated 29.11.2025 i.e. today itself is placed before me. It is taken on record and marked "X" for identification. In view of the above exigency, matter is taken up for hearing forthwith. I am informed that Corporation was served about mentioning of matter on 01.12.2025 but in view of the exigency,

Plaintiff has rushed to Court and persuades the Court to hear the Plaintiff. Hence, the matter is taken up for hearing forthwith in Chamber.

3. On the eve of the weekend, the order has been passed by the City Civil Court which is appended at page No. 17 of AO at 4.20 p.m. by virtue of which Notice of Motion filed by Plaintiff has been rejected. Plaintiff is apprehending demolition of the suit premises and has therefore rushed to this Court persuading the Court to protect the Plaintiff's structure on the strength of evidence.

4. Suit structure has received notice under Section 351 of MMC Act which is dated 28.07.2020. Record shows that on 14.08.2020 detailed reply has been filed by Plaintiff pursuant to which first speaking order was passed. Apprehending coercive action, Plaintiff filed previous Suit bearing L.C. Suit No. 1400 of 2020 to challenge the first speaking order and the notice. There was remand of the City Civil Court to consider the case of Plaintiff and pass fresh speaking order which was thereafter passed on 10.12.2020. By virtue of the order dated 23.09.2025, learned City Civil Court after hiatus of five years disposed of the previous Notice of Motion and L.C. Suit No. 1400 of 2020 and directed the Corporation to reassess the case of Plaintiff since *prima facie* learned City Civil Court found that the documents, *inter alia*, assessment bill, CTS Plan and document of status of the suit

premises in a declared slum area were not considered by the designated officer of the Corporation which had passed the earlier speaking order. Corporation was directed to follow due process of law and pass fresh speaking order in accordance with law. Plaintiff was heard by the concerned designated officer i.e. Assistant Commissioner, K/East Ward on 16.10.2025 and by virtue of the speaking order dated 31.10.2025 (appended at Exh. "X", page Nos. 137-139 of AO), case of Plaintiff was rejected and he was directed to discontinue use of the notice structure and remove the same within 15 days therefrom. This prompted the Plaintiff to rush to the City Civil Court once again. Impugned order is dated 27.11.2025 which itself records that the reasons will be recorded separately. It rejects the case of Plaintiff upon hearing the parties and rejects any protection to be given to the Plaintiff. In this background, present AO and Interim Application are filed.

5. At the threshold the reasoned order is not available but be that as it may *prima facie* on merits it is seen that in the case of Plaintiff's structure itself the date of first assessment bill is 01.04.1961 which has been rejected by the designated Officer by stating that it has been incorrectly recorded. Therefore the benefit has not been extended to Plaintiff for his structure being in existence prior to the datum line. Plaintiff has relied upon documentary evidence which has been

considered by the designated Officer and *prima facie* reading the said documentary evidence, it clearly shows existence of notice structure since long i.e. prior to 1978 atleast. According to Appellant - Plaintiff the structure is in existence prior to 1961 as per the Assessment / Reward Bill. Adjudication of CTS Plan, Mojani register, verification of the Tikka sheet and the assessment bill would be required to be done for ascertaining existence of the Plaintiff's structure by following the due process of law. This has not been undertaken. The summary dismissal of Plaintiff's case in the face of above overwhelming evidence which is appended at page Nos. 137-139 in the speaking order itself is *prima facie* cannot be accepted.

6. Mr. Thorat would inform the Court that Slum Tribunal has in fact confirmed the fact that the suit structure is situated in a designated slum and challenge to the Slum Notification stands negated by the Slum Tribunal. Necessary averments to that effect are made in the AO.

7. In view of the above *prima facie* material and the fact that Plaintiff is having a license from the Corporation issued in the year 1978 copy of which is appended to the AO, Plaintiff's notice structure / suit premises deserves to be protected.

8. Corporation is directed not to take any coercive steps whatsoever in respect of the impugned order dated 27.11.2025 (appended at page 17 of the AO) passed at 4.20 p.m. yesterday by the learned City Civil Court in Notice of Motion No. 3983 of 2025 in L.C. Suit No. 2575 of 2025.

9. In view of the above, there shall be ad-interim relief in terms of prayer clause (a) of Interim Application (st) No. 37993/2025. Corporation shall take immediate cognizance of this order and not to take any coercive action against the Plaintiff until present AO is heard for admission.

10. Issue notice to the Respondent made returnable on 11.12.2025. Humdast permitted. In addition to Court's notice, Appellant is directed to serve copy of the AO & Interim Application along with copy of this order on the Respondent and inform them 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.

11. After receiving the notice, Respondent to file affidavit-in-reply on or before the next date, if so desired with an advance copy to the Advocate for Petitioner.

- 12.** Parties to act on server copy of this order downloaded from High Court website and do not insist for authenticated / certified copy.
- 13.** Stand over to **11th December, 2025.**

Amberkar

[MILIND N. JADHAV, J.]

Digitally signed
by RAVINDRA
MOHAN
AMBERKAR
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