

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4767 OF 2023

IN

APPEAL FROM ORDER NO. 403 OF 2023

Vadivel Ashok Kumar

....Applicant

**Versus**

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

-----  
Adv. Y. K. Tiwari a/w Adv. MD. Asadullah MD. Sallem Shaikh & Adv.  
Kiran Mishra i/b. Adv. Shashipal Shankar for the Applicant.  
Ms. Smita Tondwalkar for the Respondents - BMC.  
-----

CORAM : SHIVKUMAR DIGE, J.

DATE : 2<sup>nd</sup> JUNE 2023.

( Vacation Court )

**P.C. :**

1. Heard learned counsel for the applicant and learned counsel for the respondents.
2. Learned counsel for the applicant submits that suit premises is standing since 1961, but this fact is not considered by the trial court and has passed impugned order of rejecting the interim relief.

3. Learned counsel for the respondents - BMC submit that the suit premises is not matching with the assess structure. It is unauthorized construction. The trial Court has passed the reasoned order observing that appellant is not entitled for interim relief, the order passed by the trial court is legal and valid and no interference is required in it.

4. I have heard both learned counsel perused impugned order.

5. It is contention of learned counsel for the applicant that structure is standing on the said site since 1961, the trial court has observed that the assessment is different than the suit premises. In my view, to consider all these aspects reply of respondent is required. Hence, I pass following order.

#### **ORDER**

- i. Interim application is allowed.
- ii. The respondents shall not take coercive action against the appellant till next date. Stand over to 13 June, 2023.
- iii. The respondents file reply by next date.

**(SHIVKUMAR DIGE, J.)**