

Exh.-10

1080/2019

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IN THE COURT OF CIVIL JUDGE, SENIOR DIVISION, THANE
AT THANE
REGULAR CIVIL SUIT NO 579 OF 2019

Shri. Shailesh Sevantilal Shah

Plaintiff

Versus

Defendant

117 JUL 2019

Mira Bhayander Municipal Corporation

APPLICATION ON BEHALF OF
PLAINTIFF FOR GRANT OF AD-
INTERIM INJUNCTION, IS AS
UNDER:-

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17/7/19

The captioned suit is posted on today's board for appearance and filing of say / written statement by the Defendant Corporation. In order to avoid repetition, the Plaintiff hereby adopts all and singular the contentions taken up in his interim injunction application (exh.5) to form part of this application. For the reasons recorded and detailed in the plaint, the Defendant has illegally passed a purported order dated 17th June 2019 and thereby has unilaterally and in absolute illegal manner cancelled the Commencement Certificate / building permission dated 30th March 2019 granted by the Defendant Corporation. The Plaintiff states that there is no provision in law to cancel or terminate the building permissions, the way in which it is cancelled by virtue of purported order dated 17th June 2019. The Plaintiff has acted upon the building permission dated 30th March 2019. By the illegal acts on the part of Defendant, not only the Plaintiff but even the innocent flat purchasers' interest is jeopardized and is at stake for no fault. The Plaintiff apprehends that the Defendant may take coercive steps of any extent in furtherance of letter/order dated 17th June 2019 which is under challenge. This needs to be protected, atleast during pendency of hearing of interim injunction application. As stated in injunction application, the officers of the Defendant have already threatened to take further steps in view of letter dated 17th June 2019. This is not permissible.

The Defendant is duly served with summons/notices, however has not filed its say / written statement in the matter. The Defendant thus has not shown any cause, as to why ad-interim injunction as prayed should not be granted.

There is an extreme emergency in the matter and lawful rights of the Plaintiff needs to be protected, at least during pendency of hearing of injunction application or till such date as the Hon'ble Court deems fit. There is every likelihood that the Defendant may take any coercive and/or illegal steps acting upon the purported letter/order dated 17th June 2019. The entire purpose of the suit would be frustrated if the Defendant is not restrained from doing so. No loss of any kind would be caused to the Defendant if the situation is protected and maintained as it is and if it is restrained from acting upon or taking any coercive steps on the basis of purported letter dated 17th June 2019. On the other hand, the loss that is likely to be caused to the Plaintiff cannot be compensated in terms of money.

It is therefore prayed that: -

- a) The Defendant Corporation may be restrained by an appropriate order of ad-interim injunction restraining it from acting upon the said order dated 17th June 2019 bearing reference no.MNP/NR/1335/2019/20 in any manner and/or from taking any coercive or forcible steps in respect of the Suit Property on the basis of order dated 17th June 2019; till such date as the Hon'ble Court deems fit and proper.

OR

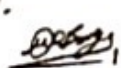
- b) Any such other prohibitory order to protect lawful rights of the Plaintiff qua the Suit Property may be granted against the Defendant; till such date as the Hon'ble Court deems fit and proper.

Thane

Dated: 17.07.2019


Advocate for Plaintiff

Say Application is strongly objected. That the plaintiff has no locus-standi to file present suit and with due regards this Hon'ble Court is barred from trying, entertaining such kind of suit. That the defendant has given hearing and has then passed detailed order. The contents of said order be considered as part and parcel of this say. The Clause Nos. 29, 39 & 40 of Commencement Certificate are flouted. U/s. 51 of MRTP Act the permission granted is revoked. Hence, the application be rejected.


(Megha Bangar)
Adv. for defendant

Plaintiff has filed Civil suit for permanent injunction alongwith application vide Exh.5 for temporary injunction. However, notice was issued against defendant. Defendant's corporation appeared through advocate vide Exh.11 and 12, however seek adjournment vide Exh.13. It is the case of the plaintiff that defendant have no authority and power to revoke the permission granted to plaintiff. Moreover, plaintiff wants to desist the defendant for taking any coersive or forcible steps on the basis of that order dated 17.06.2019, as sufficient opportunity is given to the defendant and corporation seeking adjournment. Therefore, it will be proper to grant ad-interim relief to the plaintiff. Hence, order.

:Order:

1) Defendant hereby restrained for taking coersive or forcible steps in respect of suit property on the basis of order dt. 17.06.2019 of Commissioner of Corporation till filing of say or next date which is later.

Date : 17-07-2019


Shri. K. G. Chaudhari

Joint Civil Judge J.D., Thane.

