



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 218 OF 2026

M/s. Co-operation Corporation,

A proprietary concern of

Mr. Sayed Dadpeer Qadri,

Having its industrial address at

Bhutta's Estate, Opp. Liberty Chemicals,

Mogra Village Road, Andheri (East),

Mumbai – 400 069.

...Appellant

Versus

1. **The Municipal Corporation of Greater
Mumbai,**

a body corporate constituted under the
Mumbai Municipal Corporation Act, 1888,
having its office at Mahapalika Marg,
Opp. CST, Fort, Bombay 400 001.

2. **The Designated Officer – K/East South
Ward,**

K/East South Ward Office Building,
Azad Road, Gundavali, Andheri (East),
Mumbai 400 069.

...Respondents

WITH

INTERIM APPLICATION NO. 3217 OF 2026

IN

FIRST APPEAL NO. 218 OF 2026

Smt. Kantadevi Gupta

Age : Adult, Occ. : Nil,

Through her constituted attorney

Mr. Rishabh Shorewala

Age : Adult, Occ : Business,

R/a 12 – Miami Apartment,

70/A, Bhulabhai Desai Road,

Breach Candy, Mumbai 400026.

...Applicant/Intervenor

In the matter between :

M/s. Co-operation Corporation,

A proprietary concern of

Mr. Sayed Dadpeer Qadri,

Having its industrial address at

Bhutta's Estate, Opp. Liberty Chemicals,

Mogra Village Road, Andheri (East),

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Azad Road, Gundavali, Andheri (East),
Mumbai 400 069.

...Respondents

Mr. Amogh Singh for Appellant.

Mr. Pradeep Patil for Respondent-Corporation.

Coram : Sharmila U. Deshmukh, J.

Reserved on : 14th July, 2026.

Pronounced on : 20th July, 2026.

Judgment :

1. Heard. **Admit.** With consent, taken up for final hearing forthwith.
2. The First Appeal is at the instance of the original Plaintiff being aggrieved by the order below Exhibit-1 dated 23rd February, 2026 passed by the City Civil Court rejecting the plaint in L. C. Suit No. 320 of 2026 for want of jurisdiction in view of the bar under Section 515A of

Mumbai Municipal Corporation Act, 1888 [for short, ***“MMC Act”***].

3. L.C. Suit No. 320 of 2026 came to be filed challenging the impugned show cause notice issued by the Respondent-Municipal Corporation of Greater Mumbai [for short, ***“Corporation”***] under Section 351(1) (a) of MMC Act and the impugned speaking order dated 2nd February, 2026 and for permanent injunction restraining the Defendants from acting on the impugned notice and the speaking order. Upon the suit being filed, the Court directed the Plaintiff to satisfy on the point of maintainability of the suit in view of express bar under Section 515A of the MMC Act.

4. By the impugned order, the Trial Court held that the plaint does not disclose that the Plaintiff has exhausted the statutory remedies provided to them. It noted that as the Grievance Redressal Committee has already been constituted by the Corporation to address the complaints against unauthorized construction, such committee must have the authority to deal with grievance against such complaints or orders passed by the Designated Officer. It further held that the Plaintiff has not pointed out that the Designated Officer who has issued the impugned order was not competent to pass such order and held that the Civil Court has no jurisdiction in view of Section 515A of the MMC Act.

5. Mr. Singh, learned counsel appearing for the Appellant has taken

this Court through the specific pleadings in the plaint about the impugned notice and order being nullity for the reason that the notice structure was occupied by the Plaintiff since the year 1961, the copy of the "Register of Building Plans" for the year 1961-1962 records the application by the owner Shri B. D. Bhuta for proposed repairs to the existing store room at subject plot, the Intimation of Disapproval was issued on 19th December, 1961 along with approved plan and commencement certificate was issued on 16th April, 1962. He submits that it was specifically pleaded that the suit structure was in existence prior to datum line, which was duly recognized by the authorities. He would point out the pleadings in paragraph 14 of the plaint that the impugned notice was issued entirely without application of mind and in arbitrary and *mala fide* manner. He would further point out the challenge to the impugned order was on the basis that there is no material or basis on which the Defendant No. 2 formed the opinion or reached the conclusion that the notice structure is unauthorized as there is no reference to sanction plan, no panchnama and the notice was issued in gross violation of the principles of natural justice.

6. He would point out the pleading in the plaint dealing with the bar under Section 515A of MMC Act and that the impugned notice and speaking order have not been issued in pursuance of Section 351 of the MMC Act and is wholly without jurisdiction, violates the principles of

natural justice, are void *ab initio* and therefore, bar under Section 515A does not apply.

7. He would further submit that various decisions have recognized the jurisdiction of the Civil Court to entertain the suit challenging the actions under Section 351 of MMC Act where the challenge is founded on the grounds of want of jurisdiction, violation of natural justice, nullity or *mala fides*. He submits that despite the specific pleadings and documents which were part of the record, the Trial Court has cursorily dismissed the suit in view of the bar under Section 515A of the MMC Act. He would submit that there is no discussion on the documents produced along with the plaint to demonstrate the existence of the suit structure which included the copy of IOD, commencement certificate and approved plan. He submits that there is no absolute bar on the jurisdiction of the Civil Court under Section 515A and where it is demonstrated that the notice in question is a nullity, the Civil Court would have the jurisdiction to entertain the suit.

8. Mr. Singh would further submit that during the pendency of the present proceedings, the suit premises has been demolished, however, the right to challenge the impugned order survives as it is open for the Plaintiff to seek reconstruction of the structure, upon restoration of suit, which cannot be done without a challenge to the impugned notice under Section 351 and the speaking order. In support, he relies upon

the following decisions :

Snehdeep Krida Mandal vs. Maharashtra Housing and Area Development Authority¹

Swaroop Aditya Developers vs. Municipal Corporation of Mumbai²

Suneet Narindersingh Chadha alias Romi Chadha vs. MCGM³

Jadavji Deraj Chheda vs. Brihan Mumbai Municipal Corporation⁴

Abdul Razzaq Sunesra vs. MCGM⁵

Abdul Karim Ahmed Mansoori vs. MCGM⁶

Ramesh Laxman Sonkamble vs. MCGM⁷

Yogesh Megaji Gada vs. MCGM⁸

MCGM vs. Rajendra Phulchand Gupta⁹

Laxman Barkya Wadkar vs. Mumbai Municipal Corporation of India¹⁰

Commissioner, Akola Municipal Corporation vs. Bhalchandra s/o Govind Mahashabde¹¹

9. *Per contra*, Mr. Patil, learned counsel appearing for Respondent-Corporation would submit that as the suit premises has been

1 2025 SCC OnLine Bom 1495.

2 First Appeal No. 147 of 2026, decided on 12th February, 2026 by Bombay High Court.

3 Writ Petition (L) No. 18910 of 2025 with Writ Petition (L) No. 18908 of 2025, decided by Bombay High Court on 27th June, 2025.

4 Appeal from Order No. 124 of 2025 along with batch of Appeals, decided on 15th April, 2025.

5 (2013) SCC OnLine Bom 832.

6 (2013) SCC OnLine Bom 1218.

7 Writ Petition (L) No. 1967 of 2013, decided on 30th August, 2013.

8 Writ Petition No. 2243 of 2013 with batch of Petitions, decided on 10th April, 2014.

9 2022 SCC OnLine BOM 398.

10 First Appeal No. 1635 of 2010 with batch of Appeals decided on 5th May, 2011.

11 2013 SCC OnLine Bom 615.

demolished, the Plaintiff can file fresh suit as it gives rise to fresh cause of action. He submits that the Trial Court, has exercised the powers under Order VII, Rule 11 of Code of Civil Procedure, 1908 and in view of the bar under Section 515A of Corporation Act, the plaint has been rejected which is in accordance with the law and in consonance with the judicial pronouncements on the subject. He submits that it is not the case of the Plaintiff that no hearing was given by the Corporation and after issuing show-cause notice, filing of the reply and after giving an opportunity of hearing, a well-reasoned order has been passed by the Corporation and the principles of natural justice stands fully complied. He submits that in view thereof, nullity cannot be pleaded as a ground. He submits that it is well-settled that it is not enough to merely use the expression "nullity" without pointing out how the notice and the speaking order is nullity. He submits that in the plaint, the Plaintiff has termed the notice and the speaking order as nullity whereas the order was passed after giving proper opportunity to the Plaintiff. He submits that there is no case of jurisdictional error as the Designated Officer was competent to pass the impugned order. He submits that the pleadings in the plaint constitute challenge to the validity of the order and does not demonstrate that the notice and the speaking order are nullity and therefore, the bar under Section 515A would apply. In support, he relies upon the decision in the case of

Nashik Municipal Corporation vs. Sunil Baburao Kshirsagar (since deceased, through LRs)¹².

10. There is an application for intervention which was filed by the Applicant claiming to be owner of the entire premises having purchased the same under Indenture of Conveyance dated 1993. The application pleads that the suit was filed without impleading the Applicant as a party, the Applicant had decided to file the Chamber Summons which was duly affirmed on 17th February, 2026, however, before the Chamber Summons could be lodged, the plaint in the suit came to be rejected by the impugned order and therefore, the present application for intervention in the present proceedings has been filed.

11. The submissions canvassed are in the context of the jurisdiction of the Civil Court to entertain and try the suit under Section 515A of the MMC Act. In event, the Appeal succeeds, the order would be set aside and suit will be restored to file in which case, the Applicant will be at liberty to file the Chamber Summons and in event, the Appeal does not succeed then the intervention is immaterial. Perusal of the Interim Application would also indicate that the Applicant supports the impugned notice and speaking order passed by the Corporation on merits.

12. The issue which arises for consideration in the present case is

12 Civil Revision Application No. 153 of 2016 with 679 of 2016, decided on 21st November, 2025.

whether the Trial Court was right in holding that the bar under Section 515A of the MMC Act applies and the Civil Court will not have the jurisdiction to try and entertain the suit.

13. The Trial Court had taken the suit immediately upon lodging on the point of the maintainability in view of the express bar provided under Section 515A of the MMC Act, which reads as under :

“515A. Bar of jurisdiction.— Save as otherwise provided in this Act, any notice issued, order passed or direction issued by the Designated Officer, under section 351 or 354A shall not be questioned in any suit or other legal proceedings.”

14. The provisions of Section 515A of the MMC Act has been the recurring subject-matter of various judicial pronouncements, which would provide guidance as to the applicability of the bar under Section 515 A of MMC Act when the challenge is to the notice under Section 351 or Section 354A of MMC Act.

15. Section 515A of the MMC Act was brought In the statute book by Maharashtra Act No. 2 of 2012 and the Act received the assent of the President and was published in Gazette on 30th March, 2012. The constitutional validity of Section 515A of the MMC Act was challenged in the case of ***Abdul Razzaq Sunesra vs. Municipal Corporation of Greater Mumbai*** (supra). The Hon’ble Division Bench while considering the constitutional validity of Section 515A examined the statutory scheme to hold that the provisions of Section 351 and Section 354A

contain adequate safeguards, both procedural and substantive, to ensure due notice, an opportunity to represent, the consideration of the cause shown and an application of mind to relevant and germane circumstances and that there is an urgent need of taking expeditious action against unauthorized constructions, which does not get lost in a maze of dilatory remedies in Civil Courts. The Hon'ble Division Bench negated the challenge to the constitutional validity and also adverted briefly to the grounds on which the ad-interim relief was refused by the trial Court, observing as under in paragraph 20 :

"20. Before concluding it would be necessary to note that in the present case, the ad-interim relief was refused by the City Civil Court primarily in view of section 515-A, but also on the ground that corrective machinery is available in the form of a representation before the Grievance Redressal Committee. The circular that has been issued by the Commissioner of the Mumbai Municipal Corporation on 4 June, 2013 for the setting up of a Grievance Redressal Committee was as a result of the directions issued by this Court to the effect that there should be an appropriate mechanism for redressal of grievances pertaining to unauthorized constructions. The aim of the circular is to redress grievances received from a complainant in respect of action/non-action on unauthorized constructions. The circular provides in Clause-2.3 that the zonal committee shall not pass any order which will stop/stay the notice action initiated by the designated officer and the on going notice action will continue and be brought to its logical conclusion. Similarly, clause-6.5 requires the owner/occupier against whom a complaint is made to be called to attend the hearing. The circular, therefore, provides a remedy to citizens to complain against unauthorized structures. Be that as it may, the City Civil Court was on its interpretation of section 515-A justified in coming to the conclusion as it did on the bar of jurisdiction."

16. The Hon'ble Division Bench took note of the circular issued by the Corporation on 4th June, 2013 for setting up of a grievance redressal committee for redressal of grievances pertaining to unauthorized construction. One of the reasons why the Trial Court in the present case has declined to exercise the jurisdiction is by reason of the Grievance Redressal Committee mechanism available which has not been exhausted by the Plaintiff. Paragraph 20 of the decision in the case of **Abdul Razzaq Sunesra** (supra) describes the aim of the Government circular as a mechanism to redress the grievances received from a complainant in respect of action/non-action on unauthorized construction, which provides a remedy to citizens to complaint against unauthorized structures.

17. In the case of **Snehdeep Krida Mandal vs. MHADA** (supra), the decision in the case of **Abdul Razzaq Sunesra vs. MCGM** (supra) was noted and the Hon'ble Division Bench held that when the Civil Court receives a plaint and application for interim relief such as a stay or *status quo* order challenging notices issued by the Municipal Corporation under Section 351 or Section 354 of MMC Act, it must first determine that the parties have exhausted the statutory remedy available to them which includes pursuing appropriate mechanism for grievance redressal before seeking judicial intervention.

18. In the case of **Jadavji Deraj Chheda vs. Brihan Mumbai**

Municipal Corporation (supra), the co-ordinate Bench of this Court has noted the stand of the Corporation that the Grievance Redressal Committee has been formed only for the purpose of considering the grievance against unauthorized constructions and there is no committee formed by the Corporation for redressal of grievance of the occupants. Before this Court also, it is not demonstrated that the Grievance Redressal Committee which has been set up by the Corporation would address the grievances of the occupants insofar as the proposed action under Section 351 or Section 354 is concerned.

19. The Hon'ble Division Bench in the case of ***Abdul Razzaq Sunesra*** (supra) had considered the various clauses of the circular to conclude that the circular provides a remedy to citizens to complain against unauthorised structures.

20. In the case of ***Yogesh Megaji Gada*** (supra), which was group of Petitions filed challenging the notice issued by the Corporation under Sections 351/354 of the MMC Act, a preliminary objection was raised that the writ jurisdiction of the Court seeking adjudication of seriously disputed questions of fact would result in nullifying the bar of Section 515A by expanding the scope of the writ jurisdiction. The contention was that the bar under Section 515A is not absolute and civil suit will be maintainable if the action of designated officer is nullity or there is a jurisdictional error. The co-ordinate Bench considered the various

judicial pronouncements and rendered a detailed judgment and concluded that the scope of challenge to the orders passed by the Corporation under the relevant sections has been narrowed down to jurisdictional error in the order of the authority and there is no scope of unlimited challenge to the orders and that the Petitioners will have to bring their case within the limited area. The co-ordinate Bench recognized that the bar under Section 515A is not an absolute bar and will have to be decided in facts of each case within the narrow scope of challenge.

21. In the case of ***Municipal Corporation of Greater Mumbai vs. Rajendra P. Gupta*** (supra), which is a subsequent decision, the learned Single Judge culled out limited grounds on which notice under Section 351 or Section 354A may be questioned in the suit, when :

- “(a) act of issuance of notice is nullity,
- (b) the authority issuing such a notice, has not acted in conformity with the fundamental judicial procedure,
- (c) notice has been issued by misusing the power,
- (d) offending act has not been done in good faith.”

22. In ***Laxman Barkya Wadekar vs. Mumbai Municipal Corporation of India*** (supra), the learned Single Judge of this Court considered the effect of bar created by Section 149 of the Maharashtra Regional and Town Planning Act, 1966 which is a *pari materia* with Section 515A. After considering the law on the subject, the learned Single Judge held

that notwithstanding the finality clause and express ouster of the jurisdiction, if there is an allegation made in the plaint of nullity or order being without jurisdiction, express exclusion of jurisdiction of Civil Court will not come in a way of the Civil Court entertaining the suit however, the Court will have to be *prima facie* satisfied that the action appears to be a nullity or without jurisdiction.

23. In the context of considering the bar of jurisdiction under Section 433-A of Maharashtra Municipal Corporations Act, 1949 in the case of ***Commissioner, Akola Municipal Corporation vs. Bhalchandra G. Mahashabde*** (supra), the learned Single Judge has reiterated the limited grounds on which the notice can be challenged despite the express bar.

24. No authority has been cited before this Court, which strikes a dissent and the judicial pronouncements reiterate the well-settled proposition of law that despite express ouster of Civil Court under Section 515A of the MMC Act, there is scope for challenge to the orders passed under Section 351 or Section 354A of the MMC Act within the narrow area, within which the Plaintiff has to fit its case. The plaint must disclose all such material facts as are necessary to demonstrate that the impugned order is a nullity or there is a *mala fide* exercise of power or authority in issuing such notice or the authority has not acted in conformity with the fundamental judicial procedure.

25. Though Mr. Patil would contend that as hearing was given to the Plaintiff and reasoned order is passed, there is no ground of nullity available, it is not only conformity with the facets of principles of natural justice, which is a relevant factor to be considered in order to determine whether the impugned order is a nullity or without jurisdiction. In event the pleadings and the documents on record demonstrates that the structure is authorised or tolerated, the order of demolition would be wholly without jurisdiction in view of the statutory provisions of MMC Act.

26. I have minutely gone through the pleadings in the plaint. In paragraph 5, it is specifically pleaded that the Plaintiff has been in continuous use, occupation and peaceful possession of the suit premises since the year 1961 and has annexed the certificate of registration as small-scale industrial unit issued by the Government of Maharashtra on 25th September, 1961 in respect of factory located at Bhuta's Estate, Mogra, Andheri, Mumbai – 400 069 and the industrial premises is located at Bhuta's estate. In paragraph 9, the Plaintiff has pleaded about the permissions granted for carrying out repairs to the then existing store room on the same location. It is also pleaded that the IOD issued on 19th December, 1961 along with the approved plan and the commencement certificate issued on 16th April, 1962 which are annexed at Exhibit-C of the plaint. The intimation of disapproval of

1961 is in respect of structure to be constructed at CTS No. 118 (1 to 15) at Bhuta's estate and Commencement Certificate of 16th April, 1962 is in respect of development work of repairs to the existing store on the same property along with the approved plan of 19th December, 1961.

27. There are specific pleadings dealing with the bar under Section 515 A of MMC Act and averments as regards the impugned notice and order being wholly without jurisdiction and nullity. It is not a case where the word "nullity" or "without jurisdiction" etc are recited as mantra. There are documents produced with the plaint to substantiate the existence of the notice structure prior to the datum line, which if proved, would render the impugned order wholly without jurisdiction as not action can be taken by the designated officer in view of the Corporation's policy of tolerating structures in existence prior to the datum line and the statutory provisions of Section 351 of MMC Act.

28. Upon reading of the plaint, in my view, there are necessary averments as regards the existence of the structure prior to the datum line and the specific averment that the issuance of notice in light of such documents is a nullity to sustain the allegation of the impugned order being a nullity and to vest the Civil Court with the jurisdiction, notwithstanding the bar under Section 515A of the MMC Act. Perusal of the impugned order does not indicate a detailed examination and

discussion on the averments in the plaint and documents appended and the inquiry is restricted to the competency of the designated officer.

29. The other reason why the Trial Court has declined to exercise jurisdiction is that the Plaintiff has not exhausted the statutory remedies which according to the Trial Court was the Grievance Redressal Committee. The decision of **Abdul Sunesra** (supra) clarifies that the Committee is formed for redressing the complaints against unauthorised construction. Clause 2.3 of the circular as noted in the decision prohibits the zonal committee against passing any order which will stop/stay the notice/action initiated by designated officer. Despite the circular and stand of the Corporation, the Trial Court has held that the committee has the authority to deal with the grievance against the order passed by the Designated Officer.

30. In so far as the contention that the notice structure has already been demolished and fresh suit can be filed, without demonstrating that the demolition carried out pursuant to the impugned notice and order is bad in law and illegal, no relief of reconstruction would be granted to the Plaintiff. If the suit is restored, the Plaintiff would be in a position to amend the plaint to seek appropriate relief.

31. In my view, the averments in the plaint and the documents produced on record, if proved, would render the impugned notice and

order illegal and null and void. In the facts, the jurisdiction of the Civil Court is therefore not barred under Section 515A of MMC Act. Hence the following order is passed:

: O R D E R :

- (a) First Appeal is allowed.
 - (b) The impugned judgment and order dated 23rd February, 2026 passed by the Trial Court below Exhibit -1 is hereby quashed and set aside.
 - (c) L. C. Suit No. 320 of 2026 is restored to the file of the Civil Court to be tried in accordance with law and on its own merits.
- 32.** It is open for the intervenor to file its application for intervention before the Trial Court, which will be decided by the Trial Court on its own merits and in accordance with law. Interim Application No. 3217 of 2026 is disposed of.
- 33.** Nothing survives for consideration in pending Interim/Civil applications, if any, and the same stand disposed of.

[Sharmila U. Deshmukh, J.]