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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER NO. 803 OF 2014
WITH
CIVIL APPLICATION NO. 965 OF 2014
IN
APPEAL FROM ORDER NO. 803 OF 2014**

M/s. In & Out Advertising Pvt. Ltd. ...Appellant
Vs.

The Municipal Corporation of Gr. Mumbai ...Respondent

Mr. Dinyar Madon a/w. Mr. Kunal Bhange for the Appellant
Mr. J. Reis a/w. Mr. A.V. Diwate for the Respondent BMC

**CORAM : MRS. ROSHAN DALVI, J.
DATED : 23RD SEPTEMBER, 2015**

P.C. :

Rule. Returnable forthwith.

1. There has been a lot of dispute about the date of the notice and the date of the hearing, if any, fixed and deferred. The respondent claims that the respondent has served no notice other than notice No.ACHW/402 **Exhibit-U** to the Appeal. That notice is dated 26th November, 2012. However the order which has been passed shows that it is passed upon the notice dated 7th December, 2012. The appellant contends that it has not received any notice dated 7th December, 2012 and hence has not been heard.

2. The respondent is required to serve the notice. The appellant may reply to the notice, if he desires to be heard. The appellant is required to be heard and an order on merits is required to be passed. It is accepted that the notice No.402 is served. It is seen to be dated 26th November 2012. The appellant has also replied to that notice. The appellant claims that it must be heard personally. The appellant also claims that its regularisation application is pending and would come up before the same officer. The appellant also claims that pending the appeal the respondent has exercised its discretion in allowing other hoardings to be kept as desired by the appellant. The appellant would require to have all these three facts considered together.
3. It would be best that the appellant is heard, the merits of its case are considered and an order on merits is passed. The hearing is to be before DMC (Special).
4. Hence the following order:
 1. The DMC (Special) shall, therefore, hear the appellant upon the notice served upon the appellant as also upon its regularisation application. Such hearing is fixed before the DMC Special on 8th October, 2015 at 12 noon.

2. The appellant may make any further representation, if required before the said officer on or before 5th October, 2015.
3. The relevant officer shall hear the appellant, consider the reply / representation and pass his order in accordance with law.
4. Until the order is passed and two weeks thereafter the respondents shall not pull down the hoarding of the appellant and the appellant shall be allowed to advertise thereon.
5. The appeal as also the civil application are disposed off accordingly.

(ROSHAN DALVI, J.)

CERTIFICATE

**Certified to be true and correct copy of the original signed
Judgment /order.**