

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.10749 OF 2015**

Mr.Ali Akbar Fallah Tafti .. Petitioner

Vs.

Municipal Corporation of Greater Mumbai & Ors. .. Respondents

.....

Mr.R.H.Kanojia for the petitioner.
Mrs. Bhoir for Respondent no.1 (MCGM).
Mr. S.D.Rayrikar, AGP for Respondent no.3

.....

**CORAM : M.S.SONAK, J.
DATE : 8th DECEMBER, 2015.**

P.C.:

1. In this petition, the petitioner questions the action of partial demolition of the petitioner's structure by orders made by the respondents under the provisions of the Mumbai Municipal Corporation Act, 1888 (said Act).

2. The learned counsel for the petitioner submits that the action of the Municipal Authorities was motivated and even otherwise, without authority of law. He submits that the petitioner had not increased the height of the original structure but had carried out only tenantable repairs.

3. In exercise of extra ordinary jurisdiction under Articles 226 and 227 of the Constitution of India, it is not possible to examine issues involving disputed questions of fact. There is no material on record and in

any case it is not possible to determine issues like the height of the original structure and the nature of so-called repairs undertaken by the petitioner. Accordingly, it will be not be appropriate to attempt to resolve such issues in the exercise of writ jurisdiction.

4. The learned counsel for the petitioner however states that the petitioner will make representation to the Municipal Authorities explaining his position and the Municipal Authorities may be directed to consider such representation in accordance with law. This request is quite reasonable. Therefore, the petitioner is granted a liberty to make such representation within two weeks from today and the respondents are directed to dispose of the same in accordance with law and on its own merits within a period of six weeks from the date of receipt thereof. The decision upon such representation to be communicated to the petitioner at the address communicated by the petitioner in such representation.

5. This petition is accordingly disposed of with liberty and directions as aforesaid. There shall be no order as to costs.

6. All concerned to act on basis of authenticated copy of this order.

(M.S.SONAK, J.)