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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**NOTICE OF MOTION NO.14 OF 2015
IN
WRIT PETITION NO.1136 OF 2012**

Ashok Madav Naik	... Applicant
<u>In the matter between</u>	
Ashok Madav Naik	... Petitioner
Vs.	
Bombay Municipal Corporation and Anr.	... Respondents

Mr. Pradeep J. Thorat, for the Applicant/ Petitioner.
Mr. Vinod Mahadik, for the Respondent – BMC.

**CORAM : A.S. OKA &
REVATI MOHITE DERE, JJ.**

DATE : 23rd JUNE, 2015

PC.

. Heard the learned counsel appearing for the Applicant.
Applicant is the Writ Petitioner.

2. The first prayer in the Notice of Motion is for fixing preemptory date of the hearing of the Writ Petition of the year 2012. In the last week, on final hearing cause list, Original Side Writ Petitions from the year 1995 were listed. Therefore, as of today, priority cannot be given to the hearing of the Petition of the year 2012.

3. As far as prayer clause (b) is concerned, it seeks implementation of the notice dated 10th November, 2014 issued by the Mumbai Municipal Corporation under Section 354 of the Mumbai Municipal Corporation Act, 1888. There is no relief claimed in the main Writ Petition filed by the Applicant on the basis of the said notice. The main grievance in the Petition filed by the Applicant appears to be about the inaction of the Municipal Corporation to take action against the illegal construction allegedly made by the second Respondent in the Writ Petition. Interim relief can be granted only in the aid of the main relief prayed for in the Writ Petition. Therefore, prayer clause (b) cannot be considered on merits in the Notice of Motion taken out in the main Petition. It is for the Applicant to take out appropriate proceedings in accordance with law in that behalf.

4. As far as prayer clause (c) is concerned, grant of prayer clause (c) will virtually amount to grant of final relief in the main Writ Petition which in the facts and circumstances of the case cannot be granted. Hence, subject to liberty granted above, Notice of Motion is dismissed.

(REVATI MOHITE DERE, J)

(A.S. OKA, J)