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

WRIT PETITION NO.2259 OF 2014

The Westend Gymkhana and Anr.	... Petitioners
Vs.	
State of Maharashtra and Ors.	... Respondents

**WITH
CHAMBER SUMMONS NO.42 OF 2015
IN
WRIT PETITION (L) NO.1228 OF 2014**

Jayesh H. Pandya	... Applicant
<u>In the matter between</u>	
The Westend Gymkhana and Anr.	... Petitioners
Vs.	
State of Maharashtra and Ors.	... Respondents

**WITH
CHAMBER SUMMONS NO.76 OF 2014**

Deepak H. Pandya	... Applicant
<u>In the matter between</u>	
The Westend Gymkhana through its	
Managing Trustee Mr. Ashok B. Gupta and Anr.	... Petitioners
Vs.	
State of Maharashtra and Ors.	... Respondents

Mr. Pankaj Kawali i/by Mr. Rohit Pande, for the Petitioners in WP No.2259 of 2014.

Ms. K.R. Punjabi, for the Respondent – BMC.

Mr. Rahul Narichani, Senior Counsel i/by Mr. Chetan Raithatha, for Applicant in Chamber Summons No.76 of 2014.

Ms. Jacinta D'Silva, for the Applicant in Chamber Summons No.42 of 2015.

**CORAM : A.S. OKA &
A.K. MENON, JJ.
DATE : 3rd MARCH, 2015**

P.C.

. The learned counsel appearing for the Petitioners, on instructions, states that the Petitioners are not pressing the Petition. However, he submits that as the Petitioners intend to apply for regularisation in relation to the subject matter of notices dated 14th December, 2000 and 15th January, 2014 (Exhibits 'H' and 'N' to the Petition), they may be protected for a reasonable time.

2. The learned Senior Counsel appearing for the Applicant in support of Chamber Summons No.76 of 2014 and the learned counsel representing Applicant in Chamber Summons No.42 of 2015 state that they may be permitted to appear before the Municipal Corporation when the application for regularization made by the Petitioners is dealt with. Whether the Applicants can be heard while deciding the application for regularisation is a matter to be decided by the Municipal Corporation and, therefore, it is for the Applicants to make an application to the Municipal Corporation.

3. The learned counsel appearing for the Mumbai Municipal Corporation submits that applications for regularisation at the instance of the Petitioners cannot be maintained. Such objection cannot be raised inasmuch as the application which may be made by the

Petitioners will have to be decided by the Municipal Corporation in accordance with law and even before such applications are actually made, the Municipal Corporation cannot take such a stand.

4. Hence, we pass the following order :-

ORDER

- (i) Writ Petition is disposed of as withdrawn. If applications are made by the Petitioners for regularisation in accordance with the relevant Rules within a period of six weeks from today, the same shall be decided by the Appropriate Authority of the Mumbai Municipal Corporation within a period of two months from the date on which applications are made;
- (ii) Orders passed on the applications be communicated to the Petitioners or to their licensed Architect;
- (iii) If the applications for regularisation are made within a period of six weeks from today, no action shall be taken by the Municipal Corporation on the basis of the notices dated 14th December, 2000 and 15th January, 2014 till the date of communication of the orders passed on the applications to the Petitioners or to their licensed Architect, whichever is earlier;

- (iv) If the orders passed on the said applications be adverse to the Petitioners, the aforesaid protection granted to the Petitioners will continue to operate for a period of one month from the date of communication of the said orders to the Petitioners or to their licensed Architect, whichever is earlier;
- (v) We restrain the Petitioners from making any additions or alterations to the structures subject matter of the impugned notices till the limited protection continues to operate in their favour;
- (vi) On failure of the Petitioners to make applications for regularisation within a period of six weeks from today, the protection granted under this order will cease to apply and it will be open for the Municipal Corporation to take action on the basis of the notices in accordance with law;
- (vii) It will be open for the Applicants in the Chamber Summons to make appropriate application before the Municipal Corporation. If such applications are made, the same shall be decided in accordance with law;
- (viii) We make it clear that we have made no adjudication on the merits of the applications proposed to be made by

the Petitioners;

- (ix) All contentions of parties are kept open;
- (x) Petition is disposed of on above terms. Chamber Summons No.76 of 2014 and Chamber Summons No.42 of 2015 also stand disposed of;
- (xi) All concerned to act upon an authenticated copy of this order.

(A.K. MENON, J)

(A.S. OKA, J)