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

WRIT PETITION NO.1382 OF 2015

Parkbay Co-operative Housing Society	Petitioner
Vs.	
Municipal Corporation of Greater Mumbai and Anr.	Respondents

Mr. Sachin Chavan, for the Petitioner.
Mrs. Geeta Jogalekar, for the Respondent BMC.
Mr. Rahul Ramesh Madanputra, personally present.

**CORAM : A.S. OKA &
V.L. ACHLIYA, JJ.**

DATE : 22nd SEPTEMBER, 2015

P.C.

. **Not on board. Taken on board.**

. Heard the learned counsel appearing for the Petitioner and the learned counsel appearing for the first and second Respondents. The learned counsel appearing for the Petitioner on instructions of Shri Rahul Ramesh Madanputra states that the Petitioner wants to apply for regularisation of the construction subject matter of the impugned order. We accept the said statement. In view of this statement, it is clear that the Petitioner has accepted that the construction subject matter of the order dated 14th March, 2015 (Exhibit-I to the Petition) has been made without obtaining development permission. As the alleged unauthorised structure is only of brick masonry compound wall with M.S. Gate, a

permission deserves to be granted to the Petitioner to apply for regularisation. Accordingly, we dispose of the Petition by passing the following order :-

ORDER

- (i) It will be open for the Petitioner to make an application for regularisation of the offending structure within a period of six weeks from today. Application shall be made in the prescribed form through a licensed Architect;
- (ii) If such application is made, appropriate authority of the first Respondent Corporation shall decide the same within a period of two months from the date on which the application is presented;
- (iii) The order passed on the application be communicated to the Petitioner or to the Petitioner's licensed Architect. Till the date of communication of the order to the Petitioner or to the Petitioner's licenced Architect, whichever is earlier, the impugned order dated 14th March, 2015 shall not be implemented. If the order be adverse to the Petitioner, the impugned order dated 14th March, 2015

shall not be implemented for a period of one month from the date on which the order is served to the Petitioner or to the Petitioner's licensed Architect, whichever is earlier;

(iv) We make it clear that we have not made adjudication on the merits of the application which will be made by the Petitioner for regularisation;

(v) In the event of failure of the Petitioner to apply for regularisation within the stipulated period, it will be open for the first Respondent to demolish the structure in accordance with law.

(vi) All concerned to act upon an authenticated copy of this order.

(V.L. ACHLIYA, J)

(A.S. OKA, J)

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