

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

WRIT PETITION (L) NO.1670 OF 2015

M/s. Oricon Enterprises Ltd.

..... Petitioner

V/s

**The Assistant Engineer
(Maintenance) & Ors.**

..... Respondents

Mr. Sanjiv A. Sawant for Petitioner.

Ms. K.H. Mastakar for Respondents – Corporation.

CORAM : A.A. SAYED, J.

DATED : 12 JUNE 2015

P.C.

1 The challenge in this Petition under Article 226 of the Constitution of India is to the impugned notices both dated 15 May 2015 under section 314 of the Mumbai Municipal Corporation Act, 1888.

2 So far as first Notice Exhibit C-1 at page 70 is concerned the learned Counsel for the Petitioner does not dispute the fact that M.S. Gate has already been demolished. In the circumstances, the prayers sought in the Petition seeking protection in respect of demolition of the M.S.Gate have become infructuous. It would be open for the Petitioner to file a representation or apply to the Respondent Corporation afresh for installation/construction of the M.S.Gate or adopt any remedy as available to them in law.

3 So far as second Notice Exhibit C-2 at page 72 is concerned, learned Counsel for the Petitioner states that the garage service room is

also in existence since 1960 or thereabout. It is the contention of the learned Counsel that the said garage service room is situate on a private property. Learned Counsel for the Respondent Corporation however states that garage service room is on Municipal property.

4 In my view, it would be appropriate for the Respondent Corporation to hear the Petitioner prior to taking any action for demolition in respect of garage service room.

5 Considering the facts and circumstances and in the interest of justice, I pass the following order:

- (i) Reply to the Notice shall be filed by the Petitioner within a week from today.
- (ii) The Respondent Corporation to hear the Petitioner and decide the same three weeks thereafter.
- iii) Pending the decision by the Respondent Corporation and for a period of two weeks from the date of communication thereof to the Petitioner, the garage service room shall not be demolished.
- iv) All contentions are kept open.

6. The Petition is disposed of in the aforesaid terms.

(A.A. SAYED, J.)