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

WRIT PETITION NO. 503 OF 2013

H-W Ward Citizens' Trust and another ... Petitioners

Versus

Mumbai Municipal Corporation and Ors. ... Respondents

Mr. Dipesh Siroya for the petitioners.

Ms. Vandana Mahadik for the respondent No. 2, 3 to 7.

Mr. Johnson John for respondent no. 9.

**CORAM : SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG, JJ.
DATED : 20th JANUARY, 2015**

P.C.

By this petition, the petitioners seek a direction to the Corporation to demolish the office and shed located between the high boundary wall of Sushi Cottage which is on C.T.S. No. C-1517 extended to Noori House on C.T.S. No. 1521 and covering Barnny Villa open area bearing C.T.S. No. 1520 at Rajan, Bandra West, Mumbai constructed by the respondent no. 9.

It is stated on behalf of the petitioners that the respondent no. 9 has illegally erected the shed and office between the high boundary wall on CTS No. C1517 which extends to Noori House and covers the Barnny Villa open area. It is stated that the respondent no. 9 has in utter violation of the development control rules covered the open area in Barnny Villa.

The Respondent nos. 1, 3 and 7 have filed an affidavit in reply. It is stated in the affidavit in reply that after seeking remarks from the Rationing Officer and the City Survey Officer, no action could be taken in respect of the structure in question. It is stated that the ration card of the said address is still in use and the structure in question is shown in the city survey plan of CTS C-1517, since 31st December, 1945. It is stated that it does not appear from the remarks received from the rationing officer and the city survey officer that the structure in question is unauthorized and covers the open area.

On hearing the learned counsel for the parties, it appears that several disputed questions of facts arise for determination in this writ petition. On one hand, the petitioners claim that the respondent no. 9 has made illegal construction on the open space of Barnny Villa on CTS No.1520 and on the other, the Corporation finds on receiving the remarks from the rationing officer and the city survey officer that the structure in question was in existence since long. The Petitioner and the respondent nos. 1 and 3 to 7 have relied on different reports of the city survey Officer, Bandra which are somewhat conflicting. In this background, directions can not be issued to the corporation to demolish the structure in question. It would be necessary for the petitioners to agitate the grievance before the appropriate forum.

In the result, writ petition fails and is dismissed with no order as to costs. The points raised in the petition are kept open.

(C.V. BHADANG,J.)

(VASANTI A.NAIK, J.)