

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION NO.2993 OF 2015

Shri Sanket Shah. .. Petitioner  
Vs  
Municipal Corporation of Greater Mumbai  
and Others. .. Respondents

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Shri Bhavin R. Bhatia for the Petitioner.  
Shri Vinod Mahadik for the Respondent Nos.1 and 2.  
Shri M.K. Tanna for the Respondent No.3.  
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CORAM : A.S. OKA & G.S. PATEL, JJ  
DATED : 11TH DECEMBER 2015

PC.

1. Not on board. Taken on board.
2. Heard the learned counsel appearing for the Petitioner, the learned counsel appearing for the first and second Respondents and the learned counsel appearing for the third Respondent.
3. The Petitioner has annexed to the Petition a structural audit report. The third Respondent has tendered across the bar the status report on the structural stability of the building in question. There are contradictory views expressed by the experts in the field. In any event, the Municipal Corporation cannot act upon the notice issued under

Section 354 of the Mumbai Municipal Corporation Act, 1888 unless the matter is referred to the Technical Advisory Committee (TAC) in view of conflicting reports.

4. This Petition involves the disputed questions of fact and therefore, in our view, the controversy can be more satisfactorily resolved by the Civil Court.

5. Accordingly, we dispose of the Petition by granting liberty to the Petitioner to file appropriate proceedings before the Civil Court. To enable the Petitioner to adopt appropriate remedy, the further steps on the basis of the impugned notice shall not be taken for a period of three weeks from today subject to the condition of the Petitioner filing an undertaking within one week from today stating that he will continue to occupy the premises in his possession at his own risk. Undertaking to further state that in the event the building or any part thereof collapses and any loss is caused to any third party, the Petitioner shall be solely responsible for the same.

(G.S. PATEL, J)

( A.S. OKA, J )