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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

APPEAL FROM ORDER NO.689 OF 2015
WITH
CIVIL APPLICATION NO.842 OF 2015

Sanjeev H. Bhandari	...Appellant
V/s.	
Municipal Corporation of Greater Mumbai	...Respondent

Mr.Anil Yadav for the Appellant.

Mr.S.K. Sonawane for the B.M.C. - Respondent.

CORAM : R.D. DHANUKA, J.
DATE : 26TH FEBRUARY, 2016.

P.C. :-

1. Learned counsel for both the parties agree that this appeal from order can be disposed of for the reasons recorded in Appeal From Order No.312 of 2014 and other companion matters insofar as the action taken by the Municipal Corporation under section 351 of the Mumbai Municipal Corporation, 1888 (M.M.C. Act) is concerned. The statement is accepted. In view of the statement made by both the learned counsel for the parties, separate reasons are not required to be recorded.
2. The impugned order passed by the learned trial Judge dismissing the notice of motion is set aside. The matter is remanded

back to the learned Designated Officer for deciding the action under section 351 of the M.M.C. Act. The learned Designated Officer shall allow the appellant as well as the owner of the property to produce the documents and shall hear the appellant as well as the said owner or their representatives before passing any order. The learned Designated Officer shall pass a fresh order in accordance with law and without being influenced by the impugned order passed by the learned Designated Officer and the observations made by the learned trial Judge in the impugned order.

3. The appellant as well as the owner shall file their reply along with the documents within four weeks from today before the learned Designated Officer and shall serve their respective replies along with documents simultaneously upon each other. Both the parties are also permitted to file their further reply to the allegations, if any, made against them in the submissions made by the other party in their submissions / reply. Such additional reply shall be filed within two weeks from the date of receipt of the affidavit in reply. The learned Designated Officer shall decide the matter within eight weeks from the date of parties filing their replies.

4. Till the learned Designated Officer decides the matter on remand and such decision is communicated to the appellant and for a period of two weeks thereafter, the Municipal Corporation shall not

take any coercive action against the appellant.

5. It is made clear that the appellant will have to comply with the recommendations made by the Technical Advisory Committee recommending the repairs to the building. If the appellant does not follow the advice of the Technical Advisory Committee, the Municipal Corporation would be at liberty to adopt appropriate action for implementing the recommendation of the Technical Advisory Committee against the appellant. It is made further clear that if the appellant does not comply with such recommendations made by the Technical Advisory Committee and if any untoward incident takes place, the Municipal Corporation and its officer will not be responsible.

6. The appeal from order is accordingly disposed of in aforesaid terms.

7. In view of the disposal of the appeal from order, the civil application does not survive and is accordingly disposed of. No order as to costs.

(R.D. DHANUKA, J.)