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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (ST) NO. 14977 OF 2016

Shri Premji Meghji Gindre @ Shah ... Petitioner

Versus

Asst. Commissioner, Naupada Ward Committee,
Thane and Ors. ... Respondents

Mr. M.S. Lagu for the petitionenr.

Mr. J. Shekhar a/w Mr. A. Kapadia i/by J. Shekhar & Co. for
respondents.

**CORAM : SHANTANU KEMKAR &
M.S. KARNIK, JJ.
DATED : JUNE 06, 2016.**

P.C.

By filing this petition under Article 226 of the Constitution of India, the petitioner has challenged the final notice dated 25.5.2016 (Exh. B) issued by the Assistant Commissioner, Thane Municipal Corporation, Thane invoking the provisions of section 268(5) of the Maharashtra Municipal Council Act.

2. Learned counsel for the petitioner submits that in the said notice reference to the earlier notice dated 30.6.1999 has been made whereas the said notice was declared to be illegal

by the decree passed by the trial Court. In the circumstances, merely on the basis of the said notice, it submitted that no further notice could have been issued. He further submits that the shop in question is not in dilapidated condition and as such the impugned notice is liable to be set aside.

3. On the other hand, learned counsel for the Municipal Corporation submits that the petitioner, instead of filing reply to the said notice, has approached this Court directly and in the circumstances, he may be directed to approach the Commissioner by filing reply in regard to his contention. Having regard to the aforesaid submissions, as agreed by the learned counsel for the parties, this petition is disposed of by granting liberty to the petitioner to submit a detailed reply with the supporting documents before the competent authority of respondents. On receipt of the said reply, the Competent Authority shall pass a detailed order by giving due opportunity of hearing to the petitioner. The reply be filed by the petitioner within ten days from today. On receipt of the said reply, the Competent Authority shall pass a reasoned order as expeditiously as possible but not later than one month from the date of receipt of reply. The petitioner to

appear before the said Competent Authority on the date as may be fixed by the said Competent Authority. In case any order is passed, adverse to the interest of the petitioner, the same shall not be given effect for ten days from the date of communication to enable the petitioner to seek appropriate legal remedy. The petitioner shall file an undertaking within ten days in this Court that he shall be doing the business in the said premises on his own risk and the Corporation will not be held liable for any mishap.

Petition is accordingly disposed of.

(M.S. KARNIK, J.)

(SHANTANU KEMKAR, J.)