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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION***

WRIT PETITION NO. 8835 OF 2016

Mr. Chetan Dinesh Sakaria and Ors.

... Petitioners.

V/s.

Bhiwandi Nizampur City Municipal Corporation. ... Respondent.

Mr. Nitin Dalvi a/w. Ramesh Jain for the Petitioners.

Mr. N.R. Bubna for Respondent 1.

Mr. Ramesh Thorat, Ward Officer, Ward Committee No.3 present in Court.

CORAM : N.M. Jamdar, J.

25 October, 2016.

Oral Order :-

On 28 September 2016 following order was passed :-

“ Learned Counsel for the Respondent Corporation, considering the fact that the notice was issued in the year 2002, seeks time to take instructions whether the Municipal Corporation would issue fresh notice, if so required, after examining the position as on today. If such a notice is issued, then needless to state that the present suit will not survive.

2. Stand over to 4 October 2016, to be listed under the caption 'for Directions'.

3. Till the next date, the Respondent Corporation will not take action of demolition. However, it is clarified that the occupation of the Petitioner is solely at the risk of the Petitioner.”

2. The learned Counsel for the Respondent – Corporation, on instructions of the Officer states that the Municipal Corporation would proceed as per law against the Petitioners afresh and will not act upon the earlier notice issued. This statement on instructions is accepted. It is open to the Respondent – Corporation to initiate action as per law.

3. In view of this position, the suit which is filed for a prayer that the Municipal Corporation should follow due process of law comes to an end and does not survive. The learned Counsel for the Petitioner on instructions also states that it is correct that the suit does not survive. Liberty to the parties to place the copy of this order to the record of the learned City Civil Court Judge for disposal of the suit. The Writ Petition is disposed of accordingly.

(N.M. Jamdar, J.)