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

WRIT PETITION NO. 13391 OF 2016

Millennium Bar & Restaurant

...Petitioner

Vs.

The Commissioner,

Thane Municipal Corpn. & Anr.

...Respondents

Mr. Karan Bhosale i/b. Mr. D.D. Pawar, Advocate for the Petitioner

Mr. N.R. Bubna, Advocate for Respondent No.1

CORAM : NARESH H. PATIL &

M.S. KARNIK, JJ.

DATED : 7TH DECEMBER, 2016

P.C. :

The Petitioner challenges issuance of notice dated 22nd November, 2016 under Section 260(1)(2) of Bombay Provincial Municipal Corporation Act, 1949 and the order dated 29th November, 2016 directing removal of the subject structure where Millennium Bar & Restaurant activities are going on.

2. The Counsel places reliance on reported judgment in the case of **Shri Sopan Maruti Thopte and Another Vs. Pune Municipal**

Corporation and another 1996(2) All MR 383, more precisely the observations made in paragraph No.19 of the said judgment and submits that the Corporation failed to comply the same accordingly. The Counsel further submits that if opportunity is provided, then the Petitioner would put up his explanation to the Corporation.

3. The Counsel appearing for the Corporation submits that the Petitioner has failed to establish his title and possession of premises known as Millennium Bar. Even before this Court the Petitioner failed to produce leave and license agreement. He further submitted that this structure was earlier allotted in favour of other persons who are not in picture now.

4. We direct the Corporation to accept the reply submitted by the Petitioner by Friday 5 p.m. The Corporation shall go through the entire record and pass a brief reasoned order after perusing the record as early as possible.

6. In case the Corporation decides to reject the reply and order demolition of the subject structure. 15 days time be granted from the date of receipt of order passed by the Corporation.

7. It is clarified that we have not expressed any opinion on the merits of the matter.

8. In the light of the observations made above, the impugned notice and the impugned order shall not be operative.

9. Petition is disposed of accordingly.

(M.S. KARNIK, J.)

(NARESH H. PATIL, J.)