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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 597 OF 2015

Dr. Ganesh Ramchandra Mane & Anr.

...Petitioners

Vs.

The Municipal Corporation of Greater
Bombay & Ors.

...Respondents

Mr. M.P. Jadhav, Advocate for the Petitioners

Mrs. Shobha Ajitkumar, Advocate for Respondent Nos. 1 to 3

Mr. P.R. Kadam, Advocate for Respondent No.4

CORAM : SHANTANU S. KEMKAR &

M.S. KARNIK, JJ.

DATED : 22ND JUNE, 2016

P.C. :

Parties through their Counsel. Through this Petition filed under Section 226 of the Constitution of India, 1950, the Petitioner is seeking direction to the Respondent BMC to proceed within a stipulated time on the notice issued by the Corporation against Respondent No.4 under Section 53(1) of the MRTP Act. When this matter came up for hearing on 25th April, 2016 this Court passed following order:

“1. The grievance of the Applicant (Original Respondent No.4) is that the Petitioner has obtained an order from this Court by suppressing the material facts. It is submitted that the Applicant has purchased a flat from the Developer alongwith terrace, and therefore, he is owner of the terrace alongwith the flat.

2. It is submitted that a notice under Section 53(1) of the MRTP Act has been issued on account of an order passed by this Court on 31.2.2002.

3. In our view, the Applicant will have to challenge the notice issued under Section 53(1) of the MRTP Act by filing an appropriate proceeding.

4. The Respondent Corporation, however, shall not take any steps on the basis of the notice issued under Section 53(1) of the MRTP Act till 8th June, 2016, by which time the Applicant shall take out an appropriate proceeding and seek stay to the implementation of the said notice. However, if no proceedings are taken out by the Applicant to challenge the notice issued under Section 53(1) of the MRTP Act and if no stay is obtained before 8th June, 2016, the Corporation shall proceed to implement the said notice. Notice of motion is accordingly disposed of in the aforesaid terms”.

2. Today it has been stated by the learned Counsel for the

Respondent No.4 that he had filed a Writ Petition before this Court challenging the said notice issued to Respondent No.4 under Section 53(1) of the MRTP Act. However, the said Writ Petition was withdrawn by the Respondent No.4 and a liberty has been granted to Respondent No.4 to seek appropriate remedy in accordance with law. However, it has not been disputed till date that there has been no legal impediment to the Corporation to proceed against the Respondent No.4 in furtherance of the notice issued by the Corporation under Section 53(1) of the MRTP Act. In the circumstances, we dispose of this Petition by directing the Respondent Corporation to take further steps to implement the said notice. Further steps be taken in accordance with law and compliance be reported before this Court within 4 weeks from today. It is also open for the Respondent BMC to issue appropriate orders according to law against Respondent No.5. The Petition is disposed of.

(M.S. KARNIK, J.)

(SHANTANU S. KEMKAR, J.)