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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2442 OF 2016

Mr. Vikrama Shama Shetty

.. Petitioner

Vs.

Assistant Engineer (Building & Factory)

C Ward, MCGM & ors.

.. Respondents

Mr. Viral Rathod for petitioner.

Ms. Kejali Mastakar for BMC.

Mr. M. A. Sayyed, AGP for State.

CORAM: NARESH H. PATIL &
M. S. KARNIK, JJ.

DECEMBER 20, 2016.

P.C.

1. Rule, returnable forthwith. Heard finally by consent of the parties.

2. The petitioner challenges the notice issued under Section 55(1) of the MRTP Act, 1966 dated 1/3/2016 and the order dated 17/3/2016 passed by the respondent no.1.

3. Learned counsel for the petitioner submits that without hearing the petitioner and looking into the record and reply, impugned order of demolition has been passed. Learned counsel submits that the subject

structure was there prior to 1961-62. It is further alleged that in the said gali/area petitioner's structure has been singled out by the Corporation.

4. Learned counsel for the Corporation filed reply. It is submitted that it was noticed, on a complaint, that the petitioner's structure is illegal/unauthorized one and, therefore, action is taken.

5. We have perused the record and the photographs placed before us. In the facts, we find that the Corporation shall issue notices to all the similarly situated persons, who have such structure in the subject gali/area. It is informed that some such notices are already issued and the matters are pending consideration of the authority. The petitioner's case also be re-considered along with the similar pending cases.

6. In the facts, we pass following order :

- (a) The impugned order dated 17/3/2016 passed by respondent no.1 is hereby quashed and set aside and the matter is remanded to respondent no.1-authority for considering the same afresh along with other pending cases.

(b) Petitioner is entitled to file reply/additional reply, if any.

If the petitioner desires personal hearing, the same shall be accorded to him.

(c) We direct the authority to pass a brief reasoned order in the case of petitioner and other similarly situated persons and communicate the same within four weeks from today to the petitioner.

(d) In case the order is adverse to the petitioner, the same shall not take effect for a period of two weeks from the date of receipt of the same by the petitioner.

(e) Till the decision is communicated to the petitioner and, if the order is adverse to the petitioner, thereafter for two weeks, status quo granted earlier to continue.

(e) All issues on merits are kept open.

7. Rule is made absolute in the above terms.

(M. S. KARNIK, J.)

(NARESH H. PATIL, J.)