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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.124 OF 1997

Municipal Corporation of Brihan Mumbai

...Petitioner

vs

Union of India And Anr.

...Respondents

WITH

CHAMBER SUMMONS NO.197 OF 2012

IN

WRIT PETITION NO.124 OF 1997

.....

Mr. S.K. Talsania, Senior Advocate, a/w. Ms. Kavita Anchan, i/b. M.V. Kini & Co., for thee Petitioner.

Mrs. S.V. Bharucha, for thee Respondent.

Mr. Shailesh Pathak for the Applicant in CHSW/197/2012.

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CORAM : S.C. GUPTE, J.

DATED: JULY 08, 2016

P.C. :

. The petition is disposed by the following order passed in invitum:

1. The impugned Orders dated 25 October 1996 (**Exhibit "I"** to the Writ Petition) and 6 July 1998 (**Exhibit "K"** to the Writ Petition) are quashed and set aside and the matter is remitted back to the Regional Provident Fund Commissioner to decide the following Issues

under Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act 1952;

- (a) Whether the provisions of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 have ceased to apply to the Petitioner Undertaking with effect from 1 August 1988 in view of Section 16 (1)(c) of the said Act; and
- (b) Whether the Petitioner Undertaking is liable to make contribution to its Provident Fund in respect of 1261 persons listed at **Exhibit-"1"** to the Affidavit in Reply dated 11 September 2014 of Respondent No.2 for the period from November 1990 till 6 June 1995.

2. In case the Regional Provident Fund Commissioner comes to the conclusion that the provisions of the Provident Fund Act have ceased to apply to the Petitioner Undertaking by virtue of amendment to Section 16 (1)(c), the benefit of the amendment shall not be denied to the Petitioner on the ground that the Petitioner has approached the Regional Provident Fund Commissioner for benefits under that section at belated stage.

3. Chamber Summons No.192 of 2012 is disposed off without any Order. It shall be open to the Applicant to make an application to the Regional Provident Fund Commissioner for granting an opportunity of being heard in the matter. The Petitioner shall be at liberty to raise

its objection to the Application on all such grounds as may be available in law. The Regional Provident Fund Commissioner shall consider the Application in accordance with law and pass appropriate Orders.

4. All parties, including the Applicant in Chamber Summons No.197 of 2012, shall appear before the Regional Provident Fund Commissioner on 22 July 2016, at 11.00 a.m. with an authenticated copy of this order. Further directions may be given by the Regional Provident Fund Commissioner on that day for hearing of the matter.

(S.C. GUPTE, J.)