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

PUBLIC INTEREST LITIGATION No. 94 OF 2014

Nityanand Harnarayan Mishra ... Petitioner
Vs.
Municipal Commissioner,
Brihan Mumbai Mahanagar Palika & Ors. ... Respondents

Ms. Nisha Mehra, for the Petitioner.
Ms. Trupti Puranik, for the Respondent – BMC.
Mr. Sanjiv Sawant, for Respondent No. 4.

CORAM : V. M. KANADE, &
Mrs. SWAPNA S. JOSHI, JJ.

DATE : OCTOBER 18, 2016

PC.

1. Heard the learned counsel appearing on behalf of the
Petitioner and the learned counsel appearing on behalf of Respondent
No. 4. By this petition, which is filed as PIL, Petitioner is seeking
following reliefs:

“This Hon'ble Court may be pleased to issue a writ
of mandamus and order / direction / declaration:

- (a) That this P.I.L. With Writ of Mandamus / and / or such other writ as the Hon'ble Court may deem fit and proper be issued calling for the records from concerned documents and the entire records from the office of the Respondent No. 1 to 3 in respect of the subject building known as bldg. No. Building No. 113/115, (now at present known as Shrijee Market) situate at C. S. No. 859, Old Hanuman Lane, within the area of Bhuleshwar Division Kalbadevi, Mumbai 400 002.
- (b) That this Hon'ble Court be please to issue the Writ of certiorari and / or such other Writ in this P.I.L. as the Hon'ble Court may deem fit and proper ordering and directing the Respondents No. 4 & 5 to remove the unauthorised and illegal construction over the building No. 113/115 (now at present known as Shreeji Market) situate at C. S. No. 859, Old Hanuman Lane, within the area of Bhuleshwar Division, Kalhadebi, Mumbai 400 002.
- (c) By an order of this Hon'ble Court, the concerned officers of the Respondents No. 1 to 3 and Respondents No. 4 and 5 be held responsible for the said acts of illegal and unauthorised constructions.
- (d) By the order of this Hon'ble Court the responsibility

of such illegal act be fixed of Respondents and they be penalized for their illegal acts.

- (e) Cost of this P.I.L. be provided to the Petitioner.
- (f) That such further and other relief as the Hon'ble Court may deem fit and proper be allowed.”

2. There is no allegation regarding the exact nature of unauthorised construction made by Respondent No. 4. Admittedly, Respondent No. 4 is owner of the building which is now being repaired. Respondent No. 4 has filed a detailed affidavit in reply, stating therein that there is a civil suit pending in the City Civil Court filed by him, and an appeal from order challenging the order of the City Civil Court at Bombay was disposed of by this Court by an order dated 29.7.2015. It is submitted that Petitioner is in habit of filing false and frivolous PILs only for the purpose of harassing and blackmailing the developers. He has given a list cases filed by the Petitioner. It is submitted that this Court was pleased to dismiss PIL (L) No. 55/2016 since no instructions were given to the learned counsel appearing for the Petitioner.

3. We are satisfied that there is no public interest involved in this PIL and the Petitioner is in the habit of filing such kind of

frivolous petitions / PILs, making similar allegations in respect of other buildings. Therefore, we are not inclined to entertain this PIL. Reserving the right of any aggrieved person from approaching the appropriate forum, PIL is disposed of.

Sd/-

[Mrs. SWAPNA S. JOSHI, J.]

Vinayak Halemath

Sd/-

[V. M. KANADE, J.]