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

WRIT PETITION NO. 1858 OF 2015

Shri Saurashtra Dashashrimali Jain Bhojnalay
Trust & Anr. ...Petitioners
Vs.
The State of Maharashtra & 72 Ors. ...Respondents

**WITH
WRIT PETITION NO. 2364 OF 2013
WITH
NOTICE OF MOTION (L) NO. 423 OF 2013**

Prakash M. Shah ...Petitioner
Vs.
The Municipal Corporation for Greater Mumbai ...Respondent

**WITH
WRIT PETITION NO. 932 OF 2014**

Kantibhai Girdharlal Megahni & Ors. ...Petitioners
Vs.
Municipal Corporation of Greater Mumbai & Ors. ...Respondents

Mr. Mihir Desai, Sr, Advocate a/w. Mr. P.S. Abhyankar, Advocate
i/b. Parul S. Abhyankar for the Petitioners in WP. No. 932/2014
and for Respondent Nos. 12, 14, 16, 17, 24(B), 24(C), 25 & 28
in WP No. 971/2014

Ms. Madhur Surana i/b. Mr. S.G. Surana, Advocates for
Respondent No.5 in WP. No. 932/2014

Ms. Pinky a/w. Mr. Jaini Shah i/b. M/s. MLS Vani
& Associates for Respondent Nos. 33 to 35, 37 to 40,
46 to 73 in WP. No. 1858/2015

Mr. Devendra B. Singh, Advocate for the Petitioner in WP
No.1858/2015 and for Respondent Nos. 2 and 3 in WP

No.2364/2014 and for Respondent No. 2 in WP. No. 932/2014
Ms. K.H. Mastakar, Advocate for the BMC

**CORAM : SHANTANU S. KEMKAR &
M.S. KARNIK, JJ.
DATED : 12TH JULY, 2016**

PC. :

Parties through their Counsel. With consent heard
finally.

2. Learned Counsel for the parties submit that there are conflicting structural reports. Two are in favour of the landlord and the Municipal Corporation indicating therein that building Nos. 2, 3 and 4 are in dilapidated condition and requires demolition. One report, which is in favour of the occupants of the buildings, which has been submitted on the basis of direction issued by this Court indicates that out of three buildings building No.2 is stable and is not a dangerous structure. We have gone through the order dated 16th July, 2015 passed in WP. No. 2364 of 2013 thereby while granting the Rule this Court had observed that in the meanwhile it will be open for the Municipal Corporation to refer the case to

Technical Advisory Committee (TAC). It has been stated by the learned Counsel for the parties that till date the Municipal Corporation has not referred to the TAC. Keeping in view the law laid down by this Court in the case of *Municipal Corporation of Greater Mumbai Vs. State of Maharashtra & Ors* by the Division Bench of this Court (Coram: ANOOP V. MOHTA and A.A. Sayed, JJ decided on 23rd June, 2014 in WP. No. 1135 of 2014 we feel it appropriate to direct the Municipal Corporation to refer the matter to TAC as expeditiously as possible preferably within 2 weeks from the date of receipt of this order. The TAC on receipt of such reference shall abide by the directions contained in the order dated 23rd June, 2014 passed in W.P. No. 1135 of 2014 and shall submit a report to the Corporation in regard to all the three buildings viz., Building Nos. 2, 3 and 4 situated at DS Nagar, Nursing Lane, Malad (West), Mumbai 400 064. The report shall be submitted by the TAC as expeditiously as possible.

3. On receipt of the TAC report the Municipal Corporation shall act on the basis of the said report. If the TAC report is adverse to the occupants the same shall not be acted upon for a period of 2 weeks enabling the occupants to seek appropriate remedy against it in accordance with law. With these observations and directions all the three writ petitions and notice of motion stand disposed of. All the contentions raised in all the writ petitions are left open. The undertakings given by all the occupants of all the buildings shall continue till the decision of the TAC and 15 days thereafter.

(M.S. KARNIK, J.)

(SHANTANU S. KEMKAR, J.)