

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO.1700 OF 2015**

Trio Assets Private Limited

....Petitioner

versus

Municipal Corporation of
Greater Mumbai and 2 Ors.

....Respondents

.....
Mr.S.R.Nargolkar i/b. Mr.Aumkar Joshi for Petitioner.
Ms.Geeta Joglekar for Respondent - BMC
.....**CORAM : SHANTANU S. KEMKAR &
M.S.KARNIK, JJ.****DATE : 14th JUNE, 2016.****P.C.:**

1. The petitioner has filed this petition challenging notice dated 24th February, 2015 at Exh. "G". According to the petitioner the alleged construction has taken place prior to 1940 and the same is within purview of tolerable construction. He submits that as the construction comes within the purview of tolerable construction and that it has been made prior to the year 1961, the impugned notice cannot be sustained.

2. Today, when the matter came up, the learned Counsel for the petitioner submits that though the petitioner has submitted

the reply to the said notice, but has not taken the appropriate grounds challenging the said notice and as such the impugned order came to be passed. He therefore prayed that this petition may be disposed of by granting opportunity to the petitioner to submit a detailed reply to the said notice raising all the grounds available to the petitioner alongwith supporting documents. He also submits that the competent authority of the respondent - Corporation be directed to examine the petitioners reply and the documents and be directed to pass a fresh reasoned order taking into consideration all the grounds as may be raised by the petitioner in the said reply.

3. Having considered the aforesaid submission and having heard learned Counsel appearing for the BMC we are of the view that the petition can be disposed of by granting petitioner liberty to file a detailed reply with supporting documents in regard to the impugned notice. The petitioner may submit the aforesaid reply within 4 weeks. On receipt of the reply, the competent authority of the respondent shall examine the same and shall pass a fresh reasoned order as expeditiously as possible. Till an appropriate decision is taken the interim order passed by this Court shall remain operative. In view of the aforesaid, we quash the impugned order dated 16th March, 2015 at Exh -"J". The petition is disposed of.

[M.S.KARNIK, J.]

[SHANTANU S. KEMKAR, J.]