

VPH

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

NOTICE OF MOTION No. 221 OF 2016
IN
WRIT PETITION No. 597 OF 2015

Ganesh Ramchandra Mane & Anr.	...	Petitioners
Vs.		
The Municipal Corporation of Greater Bombay & Ors.	...	Respondents
And		
Jayesh Kalyanji Rambhiya	...	Applicant in NMW (Orig. Respondent No. 4)

Mr. M. R. Sherekar i/b Mohit Pandurang Jadhav, for the Petitioners.
Ms. Shobha Ajit Kumar, for the Respondent – BMC.
Ms. Pradip Rajaram Kadam, for Respondent No. 4.

CORAM : V. M. KANADE, &
M. S. KARNIK, JJ.

DATE : APRIL 25, 2016

PC.

1. The grievance of the Applicant (Original Respondent No. 4) is that the Petitioner has obtained an order from this Court by suppressing the material facts. It is submitted that the Applicant has purchased a flat from the Developer alongwith terrace, and therefore, he is owner of the terrace alongwith the flat.

2. It is submitted that a notice under Section 53(1) of the MRTP Act has been issued on account of an order passed by this Court on 31.2.2002.

3. In our view, the Applicant will have to challenge the notice issued under Section 53(1) of the MRTP Act by filing an appropriate proceeding.

4. The Respondent Corporation, however, shall not take any steps on the basis of the notice issued under Section 53(1) of the MRTP Act till 8th June, 2016, by which time the Applicant shall take out an appropriate proceeding and seek stay to the implementation of the said notice. However, if no proceedings are taken out by the Applicant to challenge the notice issued under Section 53(1) of the MRTP Act and if no stay is obtained before 8th June, 2016, the Corporation shall proceed to implement the said notice. Notice of motion is accordingly disposed of in the aforesaid terms.

Sd/-
[M. S. KARNIK, J.]

Sd/-
[V. M. KANADE, J.]

Vinayak Halemath