

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

**CHAMBER SUMMONS NO.314 OF 2016
IN
SUIT NO.2998 OF 2009**

Municipal Corporation of Gr.MumbaiApplicant

IN THE MATTER BETWEEN :

Mr.Deepak Y.SamantPlaintiff

V/s.

Mr.Rajendra Danthi & Ors.Defendants

Mr.A.Y.Sakhare, Senior Advocate i/by U.H.Deshpande for applicant.

Mr.C.K.Tripathi for plaintiff/decreed holder.

Mr.Shyam Mehta, Senior Advocate a/w Ms.Sukhada Wagle i/by
Hariani & Co. for applicants in Chamber summons No.1177/2011.

CORAM : K.R.SHRIRAM,J

DATE : 13.7.2016

P.C.:-

1 This chamber summons is taken out by the Municipal Corporation of Greater Mumbai to be impleaded as a party defendant and for vacating the order of attachment since the applicant has served notice dated 6.8.2012 under Section 354 of the MMC Act.

2 Shri Sakhare appearing for the applicant states that the building is in a dilapidated condition and there is a grave risk of the building or any part thereof collapsing which could result in injury or loss of life. Shri Sakhare also states that all the residents of the building have vacated, the last one vacated in 2015. Shri Sakhare

also states that the property has been barricaded by the applicant in Chamber summons no.1177 of 2011. Shri Sakhare states that the applicant should be permitted to take such action as available to them in accordance with law under the provisions of MMC Act.

3 The notice under Section 354 of the MMC Act has been issued directing the noticees to remove/demolish entire structure (ground + 4 upper floors) which are in dilapidated condition and likely to fall/collapse. The purpose of issuing this notice is to prevent any loss of life or to property due to collapse of the building or any portion of the building. In view of the alleged perilous condition of the building, all the occupants have vacated. It is clarified that just because there is an order of attachment, it will not come in the way of the Municipal authorities from taking action in accordance with law. If anybody is unhappy with the notice or if anyone feels that the notice issued is not in accordance with law, it is open to the party, which would include the judgment creditor, to challenge the notice in the appropriate forum. In view of this clarification, Shri Sakhare seeks leave to withdraw the chamber summons. Chamber summons dismissed as withdrawn.

All contentions of the parties are kept open. Chamber summons No.1177 of 2011 and other applications to be listed on 27.7.2016.

(K.R.SHRIRAM,J)