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

WRIT PETITION NO.2215 OF 2014

Nalanda Co-operative Housing Society Ltd. ... Petitioner
Versus
The Mumbai Municipal Corporation and Anr. ... Respondents

Mr. Rakesh Agrawal for the Petitioner.

Mr. S.U. Kamdar, Senior Counsel a/w Mrs. Shobha Ajitkumar for the
Respondent Nos.1 and 2 - BMC.

**CORAM : A.S. OKA &
C.V. BHADANG, JJ.**

DATE : 1st FEBRUARY, 2016

PC.

1. Attention of the Court was invited on the last date to the order dated 10th October, 2013 in Writ Petition No.2899 of 2012 filed by the Petitioner. The said order reads thus :-

“ At the request of the Petitioner, the Writ Petition is allowed to be withdrawn with liberty to adopt appropriate proceedings including a suit in the Competent Civil Court. All contentions including on the point of jurisdiction of the Civil Court, maintainability of the suit and proceedings, so also, merits thereof are kept open. Writ Petition is allowed to be withdrawn with liberty as prayed and stand disposed of as such.

2. In the light of withdrawal of the main Petition, all proceedings by way of Chamber Summons or otherwise in the main Writ Petition do not survive and stand disposed of.”

2. On the last date, time was granted to the learned counsel appearing for the Petitioner to take instructions on the question whether the Petitioner wants to withdraw the Petition as there was no liberty granted to file a fresh Writ Petition. Today, he states that the Petitioner has instructed him not to withdraw the Petition. He submits that the letter dated 10th July, 2013 (Exhibit-H) was not the subject matter of challenge in the earlier Writ Petition. He states that even letter dated 20th January, 2014 was not available when the said order was passed by the Division Bench.

3. Firstly, the letter dated 20th January, 2014 is not the subject matter of challenge in this Petition. Secondly, in the earlier Writ Petition which was disposed of on 10th October, 2013, the Petitioner could have challenged the letter dated 10th July, 2013.

4. After withdrawing the Writ Petition filed earlier in the subject matter of this Writ Petition, filing of the present Petition is nothing but an abuse of process of law. Hence, Writ Petition is rejected. We direct the Petitioner to pay costs quantified at Rs.50,000/- to the first Respondent within a period of three weeks from today.

(C.V. BHADANG, J)

(A.S. OKA, J)