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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CONTEMPT PETITION (L.) NO.5 OF 2016
IN
NOTICE OF MOTION NO.483 OF 2011
IN
PUBLIC INTEREST LITIGATION NO.116 OF 2009

Bengal Club	... Petitioner
Vs.	
Wecom Trust and Ors.	... Respondents

Mr. D.A. Nalawade a/w Mr. R.A. Lokhande, Mr. Ajay Khairnar i/by
Geetanjali Golatkar for the Petitioner.

Mr. K. Talukdar a/w Mr. Vishesh Kalra i/by Vidhi Partners for the Orig.
Petitioners.

Mr. S.U. Kamdar, Senior Counsel a/w Ms. Trupti Puranik for the
Respondent – BMC.

Ms. Geeta Shastri, Additional Government Pleader for the Respondent –
State.

CORAM : A.S. OKA &
A.A. SAYED, JJ.

DATE : 5th OCTOBER, 2016

PC.

1 Heard the learned counsel appearing for the Petitioner. The
contention of the learned counsel appearing for the Petitioner is that
Condition No.1 imposed by the Mumbai Municipal Corporation in
communication dated 30th September, 2016 while granting permission

to the Petitioner to hold Durga Puja on Shivaji Park is in breach of the order dated 5th October, 2011 in Notice of Motion No.483 of 2011 taken out by the Petitioner in PIL No.116 of 2009.

2 We have perused the order dated 5th October, 2011. We fail to understand as to how the condition imposed in communication dated 30th September, 2016 is contrary to the directions contained in order dated 5th October, 2011.

3 Paragraphs 9 and 10 which are operative directions in the said order read thus :-

“9. It will be open to the Municipal Corporation to impose any additional conditions which may be required to be imposed at any given point of time looking to the exigency then prevailing.

10. It is clarified that every year the applicants will have to make application to the Municipal Commissioner for permission to use the land in question for organizing Durga Puja and Kali Puja and the Municipal Corporation for Greater Mumbai shall consider the same. But the application shall not be refused on the ground of pendency of the PIL and the interim orders passed therein.”

4 Perusal of paragraph 9 shows that on the contrary, a specific liberty was granted to the Municipal Corporation to impose additional conditions considering the exigencies. Therefore, it is impossible to accept that there is any willful or deliberate breach on the part of the Municipal Corporation of the order dated 5th October, 2011. Accordingly, Contempt Petition is rejected. This order will not preclude the Petitioner from challenging the order dated 30th September, 2016 in accordance with law.

(A.A. SAYED, J)

(A.S. OKA, J)