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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION (LODGING) NO. 2998 OF 2016  
WITH  
WRIT PETITION (LODGING) NO. 2999 OF 2016

Wallace Flour Mills Co. Private Limited

.. Petitioner

Vs.

Municipal Corporation of Gr. Mumbai and ors.

.. Respondents

Mr. Amardev J. Uniyal for petitioner in both the matters.

Mr. Anil Mishra for respondent no.3.

Ms. Kejali Mastakar for BMC.

CORAM: NARESH H. PATIL &  
M. S. KARNIK, JJ.

DECEMBER 20, 2016.

P.C.

1. By both these petitions, petitioner challenges orders dated 28/10/2016 issued under Section 351 of the Mumbai Municipal Corporation Act by respondent no.2 i.e. the Designated Officer III, Assistant Engineer (B & F), K/East. It is submitted that a boundary wall fencing is erected around the Nursery School, which is necessary for protecting the safety of the children. It is submitted that out of grudge, the respondent no.3 made certain complaint to the authorities and probably due

to such complaint, impugned orders came to be passed. Learned counsel appearing for respondent no.3 submits that the petitioner has also filed a complaint for demolition of boundary wall of his structure. Civil Suit is pending between the parties.

2. We have heard the learned counsel for the parties, perused the record.

3. In the facts, we find that these issues raise questions of fact which could be decided and determined by the Civil Forum / Civil Court or alternate forum, as advised, in respect of the subject matter of these petitions. We direct that for a period of three weeks from today status quo as on today in respect of subject boundary wall fencing of the Nursery School be maintained.

4. Keeping all issues on merits open, petitions are disposed of with liberty. It is clarified that we have not expressed any opinion on merits of the matter.

**(M. S. KARNIK, J.)**

**(NARESH H. PATIL, J.)**