

**FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO. 3126 OF 2016

Office Notes, Office Memoranda of Coram, Appearances, court's orders or directions and Registrar's orders	Court's or Judge's orders
---	---------------------------

Mr. Bhavin Bhatia for the Petitioner.

Ms. Shital Mane for the Respondent/Corporation.

CORAM : K. K. TATED, J.

DATED : 20/12/2016

PC.:

. Heard learned Counsel for the parties.

2 By this petition under Article 226 of Constitution of India, the Petitioner is challenging the order dated 27.07.2016 under Section 347-A of M.M.C. Act, 1888 and the notice dated 24.10.2016 issued by the Respondent Corporation for taking action against them under Section 475-A of the M.M.C. Act.

3 This matter was argued by the Counsel for the petitioner on 06.12.2016 and on 13.12.2016 pointing out that notice issued by respondent corporation dated 24.10.2016 is defective. Hence, the learned Counsel for the Respondent Corporation after taking instructions from her concerned officer filed affidavit-in-reply dated 15.12.2016 stating that due to oversight Section 475A of MMC Act was

mentioned in notice dated 24.10.2016 instead of Section 471. It is also stated that in the said affidavit-in-reply that in Unit No.1 is wrongly typed as 2AJK instead of 2AJ. Paragraph 3(d) of the affidavit-in-reply dated 15.12.2016 reads thus:

“3(d) I say that the order u/no. KW/BF/45262/DO II/JE SS dt 24/10/2016 is issued after considering the reply dated 12/09/2016 submitted by the Petitioner. However, due to oversight 475A of MMC Act is mentioned instead of 471 of MMC Act and secondly the unit number was wrongly typed as 2AJK instead of 2AJ.

In view of the above said facts the respondents MCGM is ready to withdraw the said order u/no. KW/BF/45262/DO II/JE SS dt 24/10/2016 Exh.-F (page 75 of the petition) with liberty to issue fresh order after correcting the typographical errors.”

4 The learned Counsel for the respondent submits that she received instructions from her officer that they are ready to withdraw the notice dated 24.10.2016 with liberty to issue a fresh for same cause of action.

5 The learned Counsel for the petitioner submits that they have no objection but all contentions of both the parties be kept open.

6 Hence, following order is passed:

a) Liberty granted to the Respondent Corporation to withdraw the notice dated 24.10.2016 and issue a fresh for same cause of action.

b) Notice dated 24.10.2016 stands cancelled in view of affidavit-in-reply filed by Respondent dated 15.12.2016.

c) Contentions of both the parties are kept open on all the issues.

d) Writ Petition stands disposed of in above terms.

(K.K.TATED, J.)