

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.3112 OF 2015

Manisha Heights Co-operative
Housing Society Ltd.

.. Petitioner

Vs

The Municipal Corporation of Greater Mumbai
and Others.

.. Respondents

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Shri A.V. Anturkar, Senior Counsel along with Shri M.K. Tanna and Shri N.M. Dedhia i/b Shri P.M. Shah for the Petitioner.

Mrs. Shobha Ajitkumar for the Respondent Nos.1 to 4.

Shri Atul G. Damle, Senior Counsel i/b Shri Suresh M. Sabrad for the Respondent Nos.5 and 6.

Shri Upadhyay, Sub-Engineer (Building Proposal) E.S. For the BMC.

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

DATED : 8TH FEBRUARY 2016

P.C.

1. In view of the contention raised by the Petitioner, the learned counsel appearing for the first to fourth Respondents on instructions states that the said Respondents are willing to withdraw the impugned order dated 12th January 2015 and to hear the Petitioner and the fifth and sixth Respondents. The learned senior counsel appearing for the fifth and sixth Respondents states that a direction may be issued to the Municipal Corporation to pass an order within the time fixed by this Court.

2. In view of the aforesaid statement, we pass the following order:

ORDER :

- (a) The impugned order dated 12th January 2015 is quashed and set aside;
- (b) We direct the representative of the Petitioner and the fifth and sixth Respondents to remain present before the Executive Engineer (Building Proposal) E.S. Of the Municipal Corporation on Monday the 22nd February 2016 at 11.00 a.m.;
- (c) After giving an opportunity of being heard to the Petitioner as well as the fifth and sixth Respondents, the Executive Engineer shall pass a fresh order as expeditiously as possible and in any event on or before 31st March 2016;
- (d) It is for the Municipal Corporation to consider the contention of the Petitioner that the Executive Engineer (Building Proposal) E.S. is not competent to pass an order. If the Municipal Commissioner finds that the said officer is not competent, on 22nd

February 2016, the parties will be informed to appear before the appropriate officer of the Municipal Corporation;

- (e) The order passed by the appropriate officer of the Municipal Corporation shall be communicated to the parties;
- (f) Till the date of communication of the order to the Petitioner and for a period of two weeks from the date on which the order is served upon the Petitioner, the actual functioning of the Nursing Home shall not be commenced. However, this order will not prevent the fifth and sixth Respondents from continuing the interior work of the premises;
- (g) All contentions of the parties on merits are kept open;
- (h) The Petition is disposed of on above terms.