

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2216 OF 2014**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders.
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Mr.Javed Hussein i/b. Hussein & Co., for the Petitioner.

Ms. Jyoti Jadhav, AGP, for respondents No.1 & 4.

Mr. P.J. Thorat a/w. Pradeep Patil, for BMC respondents No.2 & 3.

Mr. Sunil Dhudhale, Colony Officer of respondent No.3 is present.

CORAM : R. G. KETKAR, J.

DATE : 05/10/2017

P.C.:

1. Heard Mr.Javed Hussein, learned Counsel for the petitioner, Ms. Jadhav, learned A.G.P for respondents No.1 and 4 and Mr.Thorat, learned Counsel for respondents No.2 and 3.

2. By this Petition under Article 227 of the Constitution of India, the petitioner has challenged (1) the communication dated 26.7.2013 sent by the Assistant Municipal Commissioner, M/East Ward, Mumbai (2) judgment and order dated 29.1.2014 passed by the Administrator & Divisional Commissioner, Konkan Division, Mumbai in Appeal No.753/2013 as also (3) judgment and order dated 28.10.2016 passed by the Deputy Municipal Commissioner, Zone-V.

3. Mr. Thorat has tendered an affidavit in reply filed

on behalf of respondent No.3 enclosing therewith the order dated 28.10.2016 as also notices dated 21.8.2017 bearing No.38474 and 38475. Mr. Thorat submitted that the offending structure is regularized subject to imposing conditions, which are to the following effect.

- “1) Assistant Commissioner is at liberty to take action against the 3 commercial shops in front of pitch No. D/A1/12 & 13, Cheetah Camp, Trombay, Mumbai as per final order u/No.AC/M East/721136398 dated 4.7.2011 during mass demolition action in this area. A.C. (M/East) is directed to take similar action on other encroachments in this area.
- 2) Sr.Colony Officer/Asst. Commissioner, M/East ward is directed to take additional commercial structure in front of pitch No.D/A1/12 & 13, Cheetah Camp, Trombay, Mumbai on Municipal record & recover compensation from June, 1976 as per Municipal Commissioner's circular u/No.DMC/Special/SI/647 dated 6.11.2003 till demolition of additional commercial structures.”

4. Mr. Thorat further submitted that by notice bearing No.38474 dated 21.8.2017 the petitioner is called upon to pay compensation of Rs.1,79,476/- within seven days. By notice bearing No.38475 dated 21.8.2017 the petitioner is called upon to pay the compensation of

Rs.65,706/- within seven days. Mr.Hussein seeks eight weeks extension for depositing amounts of Rs.1,79,476/- and Rs.65,706/- with the Corporation and assures that the petitioner will not seek further extension of time for depositing these amounts.

5. In view thereof, the time stipulated in the notices dated 21.8.2017 for making payments to the Corporation is extended for a period of eight weeks from today with express understanding that the petitioner will not seek further extension of time.

6. Mr. Hussein states that as respondents No.2 and 3 have regularized the offending structure subject to conditions, nothing survives in the petition and same may be accordingly disposed of. In view thereof, the petition is disposed of as infructuous. Order accordingly.

(R. G. KETKAR, J.)