

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3986 OF 2017

Kiran Co-operative Housing Society Ltd.

... Petitioner

V/s.

State of Maharashtra & Ors.

... Respondents

Mr. Niranjan Mogre i/b S.S. Borkar for the Petitioner.

Mr. Manish Pabale, AGP for the the Respondent Nos. 1 & 3.

Ms. Oorja Dhond for the Respondent No.2.

Mr. Gurumurthy Iyer for the Respondent No.4.

CORAM : A.S.OKA &

SMT. VIBHA KANKANWADI, JJ.

DATE : 14th JUNE, 2017

P.C.:

. Not on Board. Taken on Board.

2 We have heard the learned Counsel appearing for the Petitioner, the learned AGP appearing for the first and the third Respondents, the learned Counsel appearing for the fourth Respondent as well as the learned Counsel appearing for the second Respondent.

3 The Petitioner is seeking a writ of mandamus directing the Municipal Commissioner to exercise the powers under Sub Section 1 of Section 191-BA of the Mumbai Municipal Corporation Act, 1888 (for short 'the said Act').

4 During the pendency of the petition, the Advocate for the Petitioner has

addressed a letter dated 10th April, 2017 to the Municipal Commissioner calling upon the Municipal Commissioner to take an appropriate action.

5 In fact, the Petitioner ought to have made a representation to the Municipal Commissioner before approaching writ Court for seeking a writ of mandamus. Now, the Petitioner has made a representation. Hence, we need not to keep the Writ Petition pending and the same is disposed of by passing following order.

ORDER

a) The Municipal Commissioner or the Officer to whom the powers of the Municipal Commissioner under Section 191-BA have been delegated shall look into the representation dated 10th April 2017 made by the Advocate for the Petitioner to the Municipal Commissioner. The Municipal Commissioner or the concerned Officer shall issue notice to the fourth Respondent. After hearing the Petitioner as well as the fourth Respondent, the concerned Officer shall pass appropriate order in accordance with law on the representation dated 10th April 2017 as expeditiously as possible and in any event, within a period of one month from the date on which an authenticated copy of this order is produced in the office of the Municipal Commissioner;

b) The Advocate for the Petitioner shall produce an authenticated copy of this order alongwith a true copy of the letter dated 10th April 2017 in the office of the Mumbai Commissioner;

c) The Advocate for the Petitioner shall also supply a copy of the said letter to the Advocate for the fourth Respondent within a period of two weeks

from today;

d) All contentions of parties on merits are kept open;

e) As soon as an order is passed, copies thereof be served to the Petitioner as well as to the fourth Respondent;

(SMT. VIBHA KANKANWADI, J.)

(A.S.OKA, J.)