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

WRIT PETITION NO. 9259 OF 2017

Sushant Haribhau Gunjal	... Petitioner
<i>Versus</i>	
Navi Mumbai Municipal Corporation & Ors.	... Respondents

Mr. Pradeep J. Thorat, for the Petitioner.
Mr. S.V. Marne, for NMMC.

**CORAM: SMT. VASANTI A NAIK AND
RIYAZ I. CHAGLA, JJ.**
DATED: 4th OCTOBER 2017

PC:-

By this writ petition, petitioner seeks a direction to respondent nos.1 and 2 – Navi Mumbai Municipal Corporation to handover the plastic bags – material weighing 2370 Kgs., that was seized by the respondent No.2 on 6th July 2017 from the tempo of the petitioner. The petitioner has in the alternative sought a direction against the respondent to pay a sum of Rs.3,02,304/- to the petitioner towards cost of the plastic material.

On a reading of the averments in the writ petition and the affidavit in reply filed on behalf of the respondent nos.1 and 2, we find that several disputed questions of facts arise in this writ petition. The plastic bags carried in the tempo of the petitioner were seized as according to the Corporation, each of the plastic bags was of the thickness of less than 50 microns. The respondents have stated in the affidavit in reply that they have destroyed the plastic bags after conducting the panchnama. It is

further stated that routinely search and seizure operations were conducted during the year 2016-2017 and 2017 – 2018 as complaints were received about the use of plastic carry bags which do not have the requisite thickness. On a reading of the affidavit in reply filed on behalf of the respondents, we find that there were 101 gunny bags containing plastic carry bags in the tempo and randomly, the samples from 20 gunny bags were taken and the thickness of the plastic bags was measured. It appears from the affidavit in reply that each of the plastic bag from the samples had a thickness of less than 40 microns. In the aforesaid state of facts, a direction cannot be issued against respondent nos. 1 and 2 to either return the plastic bags that were seized by the respondent no.2 or to pay the compensation to the petitioner for the loss of the plastic bags, in exercise of the writ jurisdiction.

In the result, the writ petition is dismissed with no order as to costs.

(RIYAZ I. CHAGLA J.) (SMT. VASANTI A NAIK, J.)