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

WRIT PETITION NO. 9737 OF 2015

Madhukar K. Dusane .. Petitioner
Vs.
Thane Municipal Corporation & Ors. .. Respondents

None for the Petitioner.
Mr. Mandar V. Limaye for Respondent No.1.

CORAM : SMT. VASANTI. A. NAIK AND
MR. RIYAZ I. CHAGLA, JJ.
DATE : 27th NOVEMBER, 2017.

P. C. :

By this writ petition, the petitioner seeks a direction against the corporation to invoke the provisions of Section 12 of the Maharashtra Municipal Corporation Act for disqualifying the respondent No.2 under Section 10 1D of the Maharashtra Municipal Corporation Act.

The learned counsel for the respondent-corporation states that the representation/notice dated 06.04.2011 does not pertain to the disqualification of the respondent No.2 and by the said representation/notice, the corporation is only asked to remove the illegal construction.

On a perusal of the representation/notice at annexure 'E', we find much force in the statement made on behalf of respondent-corporation. If the petitioner has not made any representation for the disqualification of respondent No.2, a mandamus cannot be issued against the corporation to take action for the disqualification of the respondent No.2. A writ of mandamus could be issued when a duty is enjoined upon the respondent to perform a particular act and the respondent fails or neglects to perform the same despite the demand by the petitioner.

In the instant case, since the petitioner has not made a

representation to the respondent-corporation for taking action for the disqualification of the respondent No.2, we dispose of the writ petition with no order as to costs.

[RIYAZ I. CHAGLA, J.]

[SMT. VASANTI A. NAIK J.]