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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.13749 OF 2016**

Shamrao Korde	... Petitioner
V/s.	
The Thane Municipal Corporation	
and ors	... Respondents

Mr. R.D. Soni a/w Mr. S. N. Gawade a/w Mr. Ajay Sharma,
advocates I/by Shree & Co. for the Petitioner.

Mr. A.R. Pitale, for Respondent Nos. 1 to 3.

Ms. R.a. Salunkhe, AGP for Respondent State.

Mr. Prashant Chavan a/w Rajmani Varma a/w Mr.
Ravindra Chile, advocates I/by Navdeep Vora & Associates,
for Respondent No.5.

**CORAM : NARESH H. PATIL &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 5th APRIL, 2017.

P.C. :

1] We have perused the order passed by the learned Single Judge, dated 16th October, 2015 in Writ Petition No.6330 of 2015. In paragraph Nos. 1 and 3, the learned Single Judge observed as under:-

“1. The above petition was adjourned on 13/10/2015 so as to enable the learned counsel for the Petitioner Shri A.R. Pitale to take instructions as to whether the order dated 13/06/2012 impugned in the suit passed under Section 260(2) of the Maharashtra Municipal Corporations Act

would be withdrawn by the Thane Municipal Corporation and the Municipal Corporation would offer fresh opportunity to the Respondent-original Plaintiff and thereafter pass a fresh order. Today, the learned counsel for the Petitioner Shri A.R. Pitale, on instructions of Smt. Nayana Sasane, the Assistant Commissioner, Railadevi Ward, who is personally present in Court, makes a statement that the said order dated 13/06/2012 would be withdrawn by the Municipal Corporation and that a fresh notice would be issued and thereafter a fresh order would be passed after offering an opportunity to the Respondent Plaintiff. Statement accepted.

3. In view of the withdrawal of the suit, the above Writ Petition challenging the interlocutory orders passed therein does not survive. Both the orders are accordingly set aside. The above Writ Petition is accordingly disposed of as having infructuous. It is expected of the Municipal Corporation that it will act with reasonable despatch considering the fact that it is its own allegation that the structure in question is unauthorized. Needless to state that the contentions of the parties are kept open for being urged before the Competent Authority of the Municipal Corporation”.

2] The Respondent Corporation had issued notice on 20th May, 2016 under Section 260 (1) (2) of Maharashtra Municipalities

Act, 1949.

3] It is submitted that consequent to the order passed by the learned Single Judge, the petitioner was heard and order passed on 21st July, 2016 by the Assistant Commissioner of Respondent Corporation.

4] The facts emerging are that consequent to the order passed by the learned Single Judge, the compliance of the order remained unfulfilled.

5] In the facts and in view of the subsequent development, we are of the view that the petitioner is required to be heard afresh by the Corporation on the following issues :-

(a) Whether the subject structure demolished by the Corporation was authorised one.

(b) Before demolition, appropriate steps were followed in accordance with law by the Corporation.

6] Petition is disposed of. The Petitioner is entitled to submit comprehensive representation in this regard within two weeks to the Commissioner of the Corporation.

7] In case if such representation is received by the

Respondent Corporation, the Designated Officer of the Respondent Corporation shall hear all the necessary parties including M.I.D.C. and pass a brief reasoned order within four weeks from the date of receipt of representation, on its own merits.

8] It is made clear that we had not expressed any opinion on the merits of the case.

[DR.SHALINI PHANSALKAR-JOSHI, J.] [NARESH H. PATIL, J.]