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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2174 OF 1996**

Sitaram Sonu Yadav
Inhabitant carrying on his business
at Banarasi Pan Bhandar, Ramkrishna
Mission Marg, 12th Road Corner,
Khar, Mumbai – 400 052. ... Petitioner

Versus

- 1) Mumbai Municipal Corporation
Mahapalika Marg,
Mumbai – 400 001.
- 2) The Ward Officer
H (West), Ward
Municipal Corporation of Greater
Mumbai, Bandra (West)
Mumbai – 400 050. ... Respondents

Mr. Rajendra Desai, Mr. Sachin Mahagavkar, Mr. Manav Manderia i/by
Divya Shah Associates for the Petitioner.

**CORAM : A.S. OKA &
RIYAZ I. CHAGLA, JJ.**

DATE : 18th AUGUST, 2017

ORAL JUDGMENT (Per A.S. Oka, J.)

1 Called out for final hearing. Prayer clause (a) of this
Petition under Article 226 of the Constitution of India is the only
substantive prayer which reads thus :-

“(a) that Respondent No.1 and 2 be directed to regularise the Petitioner's stall by granting licence to him in respect of his pan stall known as Banarasi Pan Bhandar, Ramkrishna Mission Marg, Khar, Bombay 400 052.”

2 The petitioner is relying upon the application dated 25th June, 1996 made by him to the Mumbai Municipal Corporation for grant of license under Section 313A of the Mumbai Municipal Corporation Act, 1888 (for short “the said Act”). By a communication dated 26th July, 1996 the Ward Officer of H-Ward informed the petitioner that his request for grant of license cannot be considered. By a letter dated 7th August, 1996 the Advocate for the petitioner called upon the Ward Officer to grant personal hearing to the petitioner. By a letter dated 28th August, 1996 the Ward Officer again informed the petitioner that as per the existing policy, new license cannot be granted therefore, the application made by the petitioner for grant of license under Section 313A of the said Act has been rejected. In this Petition under Article 226 of the Constitution of India, there is no challenge to the decision of the Municipal Corporation of rejecting application for license.

3 Today, the learned counsel appearing for the petitioner submits that the petitioner is protected by the provisions of the Street

Vendors (Protection of Livelihood and Protection of Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 (for short “the said Act of 2014”). He also relied upon the decision of this Court dated 23rd October, 2015 in Writ Petition No.224 of 2011 and other connected matter. He has placed on record a compilation of documents which shows that the petitioner has applied for registration under the said Act of 2014. In this Petition under Article 226 of the Constitution of India, the petitioner is not seeking a protection under the said Act of 2014. If the petitioner wants to seek protection of the provisions of the said Act of 2014 on the basis of applications made by him, he will have to adopt appropriate remedy in accordance with law. Suffice it to say that prayer clause (a) which is the only substantive prayer in this Petition cannot be granted.

4 Accordingly, we pass the following order :-

ORDER

- (i) The Writ Petition is rejected;
- (ii) To enable the petitioner to seek appropriate remedy for enforcing his alleged right under the said Act of 2014, ad-interim relief granted on 5th December, 1996 is extended by a period of six weeks from today;

(iii) We, however, make it clear that we have made no adjudication on the rights claimed by the petitioner under the said Act of 2014 and all contentions in that regard are kept open.

(RIYAZ I. CHAGLA, J)

(A.S. OKA, J)