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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.1015 OF 2017

Shrikant Yallappa Bhise

.... Petitioner.

V/s

The Municipal Corporation of
Greater Mumbai & Others

.... Respondents.

Mr. Sanghraj Rupwate i/b Mr. Milind A. Ingole for the Petitioner.

Ms. Geeta Jogalekar a/w Mr. Sagar Patil for Respondent Nos. 1 to 3 –
MCGM

Mr. Mayur Jadhav i/b Mr. Sachindra B. Shete for Respondent No.4.

Mr. Vachan Bodke i/b M/s. Chitnis Vaithy & Co. for Respondent No.5.

Mr. A.L. Patki, Addl. Govt. Pleader for Respondent No.6 – State.

**CORAM: B. R. GAVAI &
M.S. KARNIK, JJ.**

DATE: 21st August, 2017

P.C.:-

1] Petitioner has approached this Court praying for directions to Respondent Nos. 1 to 4 and 6 to initiate comprehensive inquiry against Respondent Nos. 3 and 5 for countermanding election of Respondent No.5 from Ward No.169 in the elections held on 21/02/2017.

2] Mr. Rupwate, learned Counsel appearing on behalf of the Petitioner, submits that Respondent No.5 had contested election on

the basis of fraudulent certificate issued in her favour by the Assistant Commissioner showing that she resides in a House which has a toilet block. He submits that, as a matter of fact, the building about which the said certificate is given was not in existence on the date of issuance of the certificate. He further submits that since the said information was made available to the Petitioner after the limitation prescribed for filing the election Petition, Petitioner could not file the election petition within the time so prescribed.

3] Mr. Bodke, learned Counsel for Respondent No.5, on the contrary, submits that on the date on which the certificate was issued, the building wherein the Respondent No.5 was originally residing stood demolished for redevelopment and she was occupying the alternate accommodation. He further submits that the relevant material including photographs etc was also produced before the Returning Officer.

4] We feel that if we entertain the present Petition, we will have to enter into various disputed questions of facts and law which, in our considered view, cannot be decided without leading evidence in that regard. We find that such an exercise in the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India would not be permitted. Petition is therefore rejected.

(M. S. KARNIK, J.)

(B. R. GAVAI, J.)