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

WRIT PETITION LODG. NO.1385 OF 2017

Maruti Nana Salaskar

..Petitioner

Vs

Municipal Corporation of Greater Mumbai & Anr.

..Respondents

Mr. Rajesh Singh for Petitioner.

Ms. Geeta Jogalekara/w Ms. Pallavri Thakar a/w Sagar Patil for
Respondent-Corporation.

**CORAM: A.S. GADKARI &
C.V. BHADANG, JJ.**

**DATE: 17 MAY 2017.
(Vacation Court).**

P.C.:

1] By the present petition, the petitioner has questioned the legality of the Notice issued under Section 314 of MCGM Act dated 18.3.2009 and Notice for shifting the petitioner dated 4.9.2013.

2] The learned Counsel for the petitioner submitted that the petitioner has filed the present petition in representative capacity as a representative of 392 similarly situated occupants. The petitioner has neither joined the said occupants as necessary party/petitioners nor has paid

the necessary and requisite Court fees and on this ground alone the present petition can be dismissed in limine. However, we have heard the learned Counsel for the petitioner and the learned Counsel for the respondent-Corporation at length and also perused the entire record.

3] In Public Interest Litigation No.140 of 2006, this Court by its Order dated 29th July 2009, after taking into consideration the encroachments near Tansa Pipeline and to ensure the safety on account of health and security of the city of Mumbai, had appointed a Committee headed by the Chief Secretary of the Government of Maharashtra to apprise this Court about possible steps to be taken for safety and health of people of Mumbai and accordingly, the said Committee submitted its report to this Court. The said Committee chalked out a plan by which the hutments which have encroached the adjoining land to the pipelines would be removed by 2015 and the eligible encroachers would be rehabilitated. This Court by its Order dated 14.10.2009 had observed that, the directions were issued from time to time were given in the context of security of the country and also of Mumbai which has experienced some of the worst terrorists attacks in recent past. The respondents have thereafter assessed the eligible encroachments which fall within the radius of 10 meter zone of the pipeline, as was suggested by the committee and prepared the list of

such occupants/persons.

4] The record reveals that the petitioner has been found as affected occupant near the said pipeline and is occupying hutment No.D-540, Sur Sambhaji Co-Operative Housing Society. The petitioner in fact has been allotted an alternate accommodation by the respondents, being project affected person by its communication dated 4.9.2013. The said communication dated 4.9.2013 is annexed at page 34 to the petition. The petitioner in the cause title has given his residential address as D-540, Sur Sambhaji Co-Operative Housing Society which has reference and reflection in the communication of alternate accommodation which is at page 34 of the present petition.

5] It is the contention of the petitioner that, his residential premises does not fall within the distance of 10 meter from the Tansa Pipeline and same need not be demolished. It is the specific and consistent stand of the Municipal Corporation that, as per the Committee's Report accepted by this Court they have assessed the premises (residential and commercial) which fall within the ambit of 10 meter distance only and till date they have demolished all such hutments.

6] It is to be noted here that, the petitioner has already been assessed as an eligible project affected person and has been allotted an

alternate accommodation by a communication dated 4.9.2013. According to us the interest of the petitioner is duly protected by the respondents. However, the petitioner with a view to take further undue advantage has filed the present petition in his alleged representative capacity on behalf of other hutments dwellers. We are of the considered opinion that the present petition is not a bonafide petition.

7] For the reasons stated hereinabove, we are of the view that the petition is devoid of any merits and is accordingly dismissed in limine.

(C.V. BHADANG, J.)

(A.S. GADKARI, J.)