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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1221 OF 2015**

Sharad Vasant Madane	... Petitioner
Vs.	
The Municipal Corporation of Greater Mumbai and Ors.	... Respondents

Mr. V.R. Tripathi for the Petitioner.
Ms. Vandana Mahadik for the Respondent No.1.
Mr. K.T. Kukreja i/by Arvind Manghirmalani for the Respondent Nos.2
to 11.

**CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 17th JULY, 2017

PC.

1 Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the second to eleventh respondents and the learned counsel appearing for the first respondent. There are two grievances made in this Petition. The first grievance made by the petitioner is as regards construction of compound wall more particularly shown on the sketch annexed at Exhibit – A to the Petition. The contention of the petitioner is that the said compound wall has been illegally constructed.

2 It is not in dispute that as regards the alleged unauthorised construction of the compound wall, the first respondent has issued

notice dated 17th June, 2011 under Section 351 of the Mumbai Municipal Corporation Act, 1888 and that the second respondent has submitted a reply to the said notice. The learned counsel appearing for the first respondent on instructions states that after hearing all the concerned parties including the petitioner and the second respondent, the concerned officer will pass an appropriate order on the notice dated 17th June, 2011 in accordance with law. We accept the said statement.

3 The second grievance made in the Petition is that the second respondent has illegally cut two trees. As far as this grievance is concerned, the petitioner will have to file a complaint with the Tree Officer of the Mumbai Municipal Corporation appointed under the provisions of the Maharashtra (Urban Areas) Protection and Preservation of Trees Act, 1975.

4 Accordingly, we dispose of the Petition by passing the following order :-

ORDER

- (i) In view of the statement made by the learned counsel appearing for the first respondent, the concerned officer shall pass appropriate order on notice dated 17th June, 2011 issued under Section 351 of the Mumbai Municipal Corporation Act, 1888 after giving an

opportunity of being heard to the petitioner and the second respondent, as expeditiously as possible and in any even within a period of four weeks from today. The order passed on the notice shall be communicated to the parties to the Petition. We make it clear that we have made no adjudication on merits of the said notice;

- (ii) As regards the grievance made by the petitioner regarding illegal cutting of the trees by the second respondent, it will be open for the petitioner to make appropriate representation to the Tree Officer of the Mumbai Municipal Corporation. After considering the representation and after giving an opportunity of being heard to the second respondent, the Tree Officer shall take appropriate action in accordance with law within a period of one month from the date on which representation is received;
- (iii) We make it clear that we have made no adjudication on merits of the controversy of this Petition as well;
- (iv) The Petition is disposed of on above terms.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)