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

WRIT PETITION NO. 1477 OF 2015

1. Asha Bhatia and anr. .. Petitioners

Versus

1. Municipal Corporation of Gr. Mumbai and ors. .. Respondents

WITH
WRIT PETITION NO. 614 OF 2017

Sanjeeva Thyampanna Shetty .. Petitioner

Versus

The Mumbai Municipal Corporation and anr. .. Respondents

WITH
CHAMBER SUMMONS (LODGING) NO. 48 OF 2017
IN
WRIT PETITION NO. 614 OF 2017

Capt. Haresh Gaglani (retd.) .. Applicant

In the matter between

Sanjeeva Thyampanna Shetty .. Petitioner

Versus

The Mumbai Municipal Corporation and anr. .. Respondents

Mr. Prashant Pandey i/by Akshay Malvia for petitioners in WP No.1477/15.
Mr. Pradeep Thorat for petitioner in WP No. 614 of 2017.

Mr. Ramchandran N. a/w Mr. Tejas P. Shah i/by Narayanan & Narayanan for respondent no.4.

Mr. Vijay Thorat i/by Prabhakar Shetty for respondent no.5 in WP No. 1477/15.

Mr. Prashant Pandey for applicant in CHSWL/48/17.

Ms. Kejali Mastakar for MCGM.

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

APRIL 21, 2017.

P.C.

1. Subject matter of the petitions is iron structure fitted on the terrace of the building known as Shri Narottam Nivas CHSL, Plot No. 263, Dr. B. A. Road, Sion Road, West, Mumbai 400 022. Two water tanks are placed over the frame. Petitioner No.1 in Writ Petition No. 1447 of 2015 claims to be member of the Society who resides on the third floor of the said building. Petitioners claim that the subject building itself has become dilapidated and due to the placement of the iron structure on which two water tanks are fixed, stability of the building has suffered to a large extent. It is, therefore, submitted that an inquiry is required to be made and a decision be arrived as to the subject structure.

2. Learned counsel appearing for the petitioner in Writ Petition

No. 614 of 2017 submits that petitioner is one of the member of the society. The petitioner challenged notice dated 28/10/2016 issued by the Corporation calling upon the petitioner to remove the base structure. The Corporation thereafter passed order on 16/12/2016 directing the petitioner to remove the base structure on which two water tanks were fixed. Learned counsel for the petitioner submits that the petitioner had submitted a on-line proposal on 16/12/2016 for regularization of the subject structure.

3. Learned counsel for the Society submits that except the petitioners in Writ Petition No. 1477 of 2015, rest of the members are not in favour of demolition of the subject building. The society too is not in favour of demolition of the subject building and neither in agreement with the views of the petitioner.

4. We direct the Executive Engineer, Building Proposal, City -II to decide the proposal submitted by the petitioner in Writ Petition No. 614 of 2017. In case the Corporation does not find the said proposal with them, then the petitioner shall submit additional copy of the same with the said authority.

5. We direct the Executive Engineer, Building Proposal, City-II to pass a brief reasoned order after hearing all the necessary parties within six weeks from today and communicate the decision to the petitioner. Till the decision is taken on the proposal submitted by the petitioner in Writ Petition No. 614 of 2017, status quo as on today shall be maintained. In case the decision is adverse to the petitioner, the same shall not take effect for two weeks from the date of receipt of the said decision by the petitioner.

6. All contentions on merits are kept open. Petitions are disposed of accordingly.

7. In the light of the above order, Chamber Summons (L) No. 48 of 2017 stands disposed of.

(DR. SHALINI PHANSALKAR-JOSHI,J.)

(NARESH H. PATIL,J.)