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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1866 OF 2014
WITH
SHOW CAUSE NOTICE NO.272 OF 2017
IN
WRIT PETITION NO. 1866 OF 2014

Yograj -Co-operative Society Ltd. Petitioner

V/s.

Municipal Corporation of Greater Mumbai
and Others Respondents.

Mr. Ketan Chothani a/w Mr. Akshay Vani i/b M/s MLS Vani and
Associate for the Petitioner.

Mr. S.S. Pakale a/w Ms. Geeta Jogalekar for Respondent No.1 –
MCGM.

Mr. Y.K. Tiwari i/b M/s. K.P. Tiwari & Co. for Respondent No.2.

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

DATE: 4th September, 2017

P.C.:-

1] It is a grievance of the Petitioner that Respondent No.2 has
unauthorizedly made construction by encroaching upon the open land.

2] An affidavit is filed by Mr. Amol Chaunpurg, Designated

Officer, K/E Ward, stating therein that as per directions issued by this Court on 14/12/2015, the site in question was inspected on 13/01/2016. Perusal of the affidavit reveals that in almost all the flats which are situated in the Petitioner – Society, various illegalities have been committed.

3] In our view, if there is any dispute between the Petitioner – Society and any of its members, Petitioner is always entitled to invoke jurisdiction of the competent Co-operative Court under the provisions of Section 91 of the Maharashtra Co-operative Societies Act. In any case, it has to be noted that Corporation has taken necessary steps by taking recourse to Section 53 of the M.R.T.P. Act.

4] We do not find that a case is made out for interference under extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. Petition is rejected, relegating the Petitioner to ordinary remedy available in law. Consequently, show cause notice is discharged.

(M. S. KARNIK, J.)

(B. R. GAVAI, J.)