

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

**CONTEMPT PETITION NO. 90 OF 2014
IN
WRIT PETITION NO. 1558 OF 2013**

Mohamed Rafique Ibrahim Tambe

... Petitioner.

V/s.

The Municipal Corporation for Greater Mumbai & Ors.

... Respondent

Mr. S. M. Pathak for the Petitioner.

Mr. A.Y. Sakhare, Senior Counsel a/w Mr. J.J. Carloz & Ms. Pallavi Thakkar for the the Respondents.

CORAM : A.S.OKA &

SMT. VIBHA KANKANWADI, JJ.

DATE : 14th JUNE, 2017

P.C.:

. Heard the learned Counsel appearing for the Petitioner. The breach alleged is of the order dated 20th January 2014 passed by a Division Bench of this Court. The paragraph 2 of the said order reads thus:

“2. The Petitioner's complaints dated 16 January 2012 and 13 August 2012 shall be decided by the Respondent-Corporation, in accordance with law, as the case is of alleged illegal construction by Respondent Nos. 4 and 5. The Respondent-Corporation to decide the complaints as early as possible, preferably within eight weeks, in accordance with law.”

2 Two affidavits have been filed on record by the Mumbai Municipal

Corporation of Shri. Narendra Madhukar Khopkar. The affidavits indicate that on the basis of the complaints which are subject matter of the Writ Petition No. 1558 of 2013, a notice under Section 351 of the Mumbai Municipal Corporation Act, 1888 (for short “the said Act”) was issued.

3 The grievance of the learned Counsel appearing for the Petitioner is that the Municipal Officers have just created show and in fact, an action of demolition is not taken. By the order dated 28th January, 2014 Municipal Corporation was directed to decide the complaints. From the affidavits on record, it apparent that complaints have been decided and an action under Section 351 of the said Act has been initiated. Suffice to say that there is a substantial compliance with the order dated 28th January 2014.

4 If the grievance of the Petitioner is that complaints are not decided to his satisfaction or that an effective action has not been taken on the basis of orders under Section 351 of the said Act, it is for the Petitioner to adopt appropriate substantive proceedings in that behalf.

5 Subject to what is observed above, no case is made out for the proceeding further in this Contempt Petition. Notice issued on 20th January 2014 is discharged.

6 We, however, make it clear that all contentions raised by the Petitioner as regards the failure of the Mumbai Municipal Corporation to take effective action are expressly open.

(SMT. VIBHA KANKANWADI, J.)

(A.S.OKA, J.)