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

WRIT PETITION (Lodg.) NO. 1932 OF 2017

Gokuldas Ramraya Pai.

... Petitioner.

V/s.

The Commissioner, Municipal Corporation
of Greater Mumbai & Anr.

... Respondents.

Mr. Sanjeev Sawant i/b. Mr. Abhishek P. Deshmukh for the
Petitioner.

Mr. Dipen Merchant, Senior Advocate a/w. Ms. Kejali Mastakar for
BMC.

***CORAM : A.S. Oka and
M.S. Sonak, JJ.***

DATED : 11 December, 2017.

P.C. :-

Heard learned Counsel appearing for the Petitioner and
learned Senior Advocate appearing for the Respondents. There are
two substantive prayers made in this Petition which are prayers (a)
and (b) which read thus :-

“(a) This Hon'ble Court be pleased to pass appropriate
order or direction thereby directing the Respondent

No.1 to consider the sanctioned plan dated 2nd November 2011 pertaining to the land bearing CTS No. 200 and 201/A situate at Charkop, Kandivali West, Mumbai and the road which is in existence be made available to the Petitioner's property bearing Survey No. 99, Hissa No. 13, CTS No. 213 situate at Kandivali West, Mumbai as the petitioner's property is a land-locked property;

(b) This Hon'ble Court be pleased to pass an order thereby giving appropriate directions to the Respondent No.1 to forthwith decide the representation dated 3rd July 2017 made by the Petitioner pertaining to the right of way/access to the Petitioner's property bearing Survey No. 99, Hissa No.13, CTS No. 213 situate at Kandivali West, Mumbai and the same be done within a period of four weeks from the date of the order passed by this Hon'ble Court.”

2. Even in the representation referred in prayer clause (b), a prayer made is in terms of prayer clause (a) above.

3. The Petitioner is claiming right of way through the land bearing CTS No. 200 and 201/A, Charkop, Kandivali, Mumbai. According to us, the Municipal Corporation or its Commissioner are powerless to pass an order directing owners of CTS No. 200 and 201/A to grant right of way to the Petitioner.

4. If it is the case of the Petitioner that while granting building permission in relation to the land bearing CTS No. 200 and 201/A, the Municipal Corporation has incorporated a condition of

providing an access to the Petitioner's property, by producing a copy of the development permission, the Petitioner can seek appropriate action against the owners of CTS No. 200 and 201/A for committing breach of the condition.

5. Suffice it to say that reliefs as prayed for cannot be granted in this Petition under Article 226 of the Constitution of India. Accordingly, the Petition is disposed of. We make it clear that there is no adjudication made on merits.

(M.S. Sonak, J.)

(A.S. Oka, J.)