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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.2046 OF 2017**

Mr. Aslam Ismail Sorathiya	... Petitioner
Vs.	
States of Maharashtra and Ors.	... Respondents

Mr. R.P. Khobragade for the Petitioner.
Mr. K.R. Trivedi, AGP for the Respondent No.1.
Ms. Vandana Mahadik for Respondent – BMC.

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

DATE : 3rd AUGUST, 2017

PC.

. Not on Board. Taken on Board.

1 Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents. The learned counsel appearing for the petitioner has tendered an affidavit-cum-undertaking of the petitioner. He states that the petitioner desires to apply for regularisation of the entire structure mentioned in paragraph 3 of the said affidavit. In view of the statements made in affidavit-cum-undertaking, the challenge to the impugned order will not survive.

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

ORDER

- (i) The undertaking of the petitioner tendered across the Bar and marked as 'X' for identification is accepted;
- (ii) It will be open for the petitioner to file an application for regularisation through a licensed architect in a prescribed format and by a prescribed mode in respect of the premises mentioned in paragraph 3 of the undertaking within a period of one month from today;
- (iii) If such application for regularisation is filed within a period of one month from today, the same shall be decided within a period of 60 days from the date of filing of the application;
- (iv) Order passed on regularisation application shall be communicated to the petitioner's architect;
- (v) Till the date of communication of the order passed on regularisation application to the petitioner's architect, action of demolition on the basis of the impugned notice/order shall not be taken by the Mumbai Municipal Corporation. If the application is rejected, this limited protection will continue to operate for a

period of four weeks from the date on which the order is communicated to the petitioner's architect;

- (vi) We direct the petitioner to produce undertakings of Farid Qureshi and Nasim Qureshi whose names appear in paragraph 3 of the undertaking filed by the petitioner in terms of clause 6 of the undertaking of the petitioner within a period of one month from today. On the failure of the petitioner to file undertakings of these two persons within a period of one month from today, the protection granted to the petitioner shall stand vacated without further reference to the Court;
- (vii) Needless to add that if the petitioner fails to apply for regularisation within the stipulated time, the protection granted under this order shall come to an end.
- (viii) We make it clear that we have made no adjudication on the merits of the regularisation application which may be made by the petitioner;
- (ix) Accordingly, the Petition is disposed of.

(SMT. VIBHA KANKANWADI, J) (A.S. OKA, J)