

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 2334 OF 2017

New Blue Flame Premises Co. Op. Soc. Ltd. ..Petitioner
versus
Brihanmumbai Municipal Corporation ..Respondent

Mr. A.G. Damle - Senior Counsel a/w Mr. A. S. Singh for Petitioner.
Ms Kejali Mastakar for Respondent- BMC.

CORAM: A. S. OKA & M. S. SONAK, JJ.
DATE : 18TH DECEMBER 2017

P. C. :

1] It is an undisputed position that the 1st respondent Municipal Corporation has taken over possession of the set back area falling within the road line of the subject property of the petitioner.

2] The learned senior counsel appearing for the petitioner on instructions states that the petitioner will claim TDR / FSI in respect of the area taken over by the 1st respondent Corporation. He, however, submits that a direction be issued to the Municipal Corporation to grant permission to the petitioner to construct compound wall along the road line as there is every possibility that the remaining land of the petitioner will be encroached upon. There is some merit in this request made across the bar.

3] The learned counsel appearing for the petitioner tenders across the bar a plan showing the area taken over by the 1st respondent Municipal Corporation. The plan is marked as 'X1' for identification and is taken on record.

4] In view of the aforesaid statement, we dispose of the petition by passing the following order :

(A) If an application is made by the petitioner for grant of permission to erect a fencing and/or compound wall to the 1st respondent Municipal Corporation, the said Municipal Corporation shall consider the said application as expeditiously as possible and in any event, take appropriate decision thereon within a period of two weeks from the date on which the application is submitted;

(B) We also make it clear that it will be open for the petitioner to apply for grant of TDR and/or FSI in respect of the area taken over by the Municipal Corporation. If any such proposal is submitted by the petitioner, the Municipal Corporation shall expeditiously decide the same in accordance with law;

(C) The petition is disposed of on above terms.

(D) All concerned to act on an authenticated copy of this order.

(M. S. SONAK, J.)

(A. S. OKA, J.)