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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 2439 OF 2017**

Indus Towers Ltd.	... Petitioner
<i>Versus</i>	
Municipal Corporation of Gr. Mumbai & Ors.	... Respondents

Mr. Surel Shah, with Mr. Prrasad Dhande, Mr. Amit Kharwar and Mr. Toufiq Kapadia i/b Link Legal India Law Services for the Petitioners.

Ms. Shruti Tulpule, for the Respondent Nos. 3 to 6.

Ms. K.H. Mastakar, for MCGM.

Ms. G.R. Shastri, Addl. G.P.

Mr. Padmakar Chavan, Asstt. Engineer.

CORAM:	SMT. VASANTI A NAIK AND MR. RIYAZ I. CHAGLA, JJ.
DATED:	16TH NOVEMBER 2017

PC:-

The petitioner challenges the order of the municipal corporation dated 10th August 2017 directing the petitioner to remove the unauthorised mobile tower within 24 hours.

Mr. Shah, the learned counsel for the petitioner *inter alia* submitted that the impugned order is liable to be set aside as the same is passed by the respondent corporation without granting an opportunity to the petitioner. It is stated that before passing the impugned order the corporation authorities did not serve a show cause notice on the petitioner. It is submitted that the action is based by the corporation on the order dated 3rd April 2017 in writ petition no. 544 of 2017 filed by Bathia Family Trust, to which the petitioner was not a party.

It appears on hearing the learned counsel for the parties that without joining the petitioner company that had erected the mobile tower on the building that is claimed to have been owned by Bathia Family Trust, in writ petition no. 544 of 2017, a direction was sought by Bathia Family Trust to initiate inquiry and take action for the removal of the mobile tower of the petitioner. While disposing of the writ petition by an order dated 3rd April 2017, this court had directed the corporation to hear all the necessary parties and respondents to the petition and thereafter take an appropriate decision. Though the petitioner company that has erected the tower would have been seriously prejudiced and affected by the action on the part of the corporation of directing the removal of the tower and though this court had specifically directed the respondent corporation to hear all the necessary parties and the respondents, admittedly, the petitioner was not heard in the matter. The corporation authorities have not only not complied with the direction in the order dated 3rd April 2017 but have also passed the impugned order without granting an opportunity to the petitioner.

Hence, for the reasons aforesaid, the writ petition is partly allowed. The impugned order is quashed and set aside. The corporation authorities are free to take appropriate action in accordance with law. Since, the impugned order is quashed and set aside, the respondent no.9 may take appropriate steps for restoration of the electric supply.

Order accordingly. No costs.

(RIYAZ I. CHAGLA J.)

(SMT. VASANTI A. NAIK, J.)