

Amk

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

WRIT PETITION (L) NO. 2545 OF 2017

Gnanesh V. Lakhia .. Petitioner
Vs.
Mumbai Municipal Corporation & Ors. .. Respondents

Mr. M. M. Vashi, Sr. Advocate a/w. Ms. Aparna Deokar i/b M. P. Vashi & Associates for the Petitioner.

Mr. Pradeep J. Thorat for Respondent Nos.4, 5, 7 to 14.

Ms. Vandana Mahadik for the MCGM.

Mr. S. G. Bhandary i/b Bhandary & Bhandary for Respondent No.6.

**CORAM : SMT. VASANTI. A. NAIK AND
MR. RIYAZ I. CHAGLA, JJ.**

DATE : 27th NOVEMBER, 2017.

P. C. :

The only prayer made by the petitioner in the instant petition is for a direction against the corporation to disconnect the electric supply to the concerned building and take necessary steps for demolishing the same.

It is submitted on behalf of the petitioner that though the corporation had served a notice for the demolition of the building under Section 354 of the Mumbai Municipal Corporation Act, the corporation has not taken any steps in furtherance of the said notice.

The learned counsel for the respondent Nos.4, 5 & 7 to 14 states that the building does not require demolition and the same could be repaired. It is stated that the Structural Engineer/Architect's report is furnished to the corporation on 18.11.2017 to point out that the building could be repaired and it is not necessary to demolish the same.

The learned counsel for respondent No.6 also reiterates the statements made on behalf of respondent Nos.4, 5 & 7 to 14.

Since rival reports of the Structural Engineers appointed by the

petitioner and the respondent Nos.4, 5 & 7 to 14 are tendered by the respective parties to the corporation, in view of the direction in the Judgment in Writ Petition (L) No. 1135 of 2014, it would be necessary for the corporation to refer the matter to the Technical Advisory Committee, so that the TAC would inspect the property and carry out the necessary tests, as laid down in the Judgment in Writ Petition (L) No. 1135 of 2014.

In the aforesaid set of facts, we dispose of the writ petition with the direction to the respondent Nos.1 & 2 to refer the matter to the TAC so that a report could be prepared by the TAC after inspecting the building and carrying out the tests as laid down in the Judgment in Writ Petition (L) No. 1135 of 2014. The corporation should ensure that the report of the TAC is secured within four months. It is needless to mention that no coercive steps pertaining to the demolition of the building could be undertaken either by the corporation authorities or the petitioner till the TAC prepares the report and serves it on the parties. The expenses for conducting the necessary tests before the preparation of the report by the TAC should be equally borne by the petitioner on one hand and the respondent Nos.4 to 14 on the other. Order accordingly. No costs.

[RIYAZ I. CHAGLA, J.]

[SMT. VASANTI A. NAIK J.]