

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

WRIT PETITION (L) NO. 2681 OF 2017

Mr. Suketu R. Desai
and another

...Petitioners.

Versus

Mumbai Municipal Corporation
and others

...Respondents.

....

Ms. Panati Desai i/b. Mr. M.P. Vashi & Associate for the
Petitioners.

Ms. Sheetal Mane for MCGM.

....

***CORAM : Smt. Vasanti A Naik &
Riyaz I. Chagla, JJ.***

DATE : 23rd November, 2017.

P.C. :

Mr. Vashi, the learned senior counsel for the petitioner submitted that though the prayer made in the writ petition is for a direction to the respondents to depute a responsible officer to visit the bungalow of the petitioners situated at the address mentioned in the cause title to find out whether there are any illegalities in the construction of the said bungalow, the grievance of the petitioners would be redressed if a statement is made on behalf of the respondent-Corporation that no action for the demolition of the alleged illegal construction would be taken without serving a notice on the petitioner. It is stated that on more than a couple of earlier occasions, certain portion of the bungalow of the petitioners was demolished without following the due procedure, only on the complaint made by some persons in the neighborhood.

Ms. Mane, the learned counsel for the respondent-Corporation states that a notice was indeed served on the petitioners before a year and half and if the Corporation finds that the illegal structure is not demolished, the Corporation may demolish it.

We do not appreciate the statement made on behalf of the Corporation. If a notice was served on the petitioners nearly two years earlier for demolition of an illegal construction, it was necessary for the Corporation to ensure that future action is taken. We find that no action is taken by the Corporation on the basis of the notice allegedly served on the petitioner till date. If that be so, it would be necessary for the Corporation to first serve a notice on the petitioners before taking action of demolition, if any illegality in the construction or erection of the structure is found.

In the peculiar circumstances of the case, we dispose of the writ petition with a direction against the Corporation to serve a notice on the petitioners and follow the due process of law before taking an action for demolition of the structure. Order accordingly. No costs.

(Riyaz I. Chagla J)

(Smt.Vasanti A Naik, J)