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

WRIT PETITION NO.399 OF 2014

Mr. Ramnarayan Tiwari

... Petitioner

Vs.

The Bombay Municipal Corporation and Ors.

... Respondents

Mr. Shriniwas Singh for the Petitioner.

Ms. Geeta Joglekar for the Respondent Nos.1 and 2.

Mr. Omprakash Singh for the Respondent No.3.

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

DATE : 26th JULY, 2017

PC.

1 Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first and second respondents and the learned counsel appearing for the third respondent. In terms of the order dated 14th June, 2017 Shri Santoshkumar S. Dhonde, Assistant Commissioner, 'S' - Ward has tendered an affidavit dated 25th July, 2017. He carried out inspection in terms of the directions of this Court and came to the conclusion that illegal structure has been erected by the third respondent. The affidavit states that on 22nd July, 2017, a notice under Section 351 of the Mumbai Municipal Corporation Act,

1888 has been issued to the third respondent. The learned counsel appearing for the third respondent states that the third respondent has been served with the said notice who will file a reply to the said notice.

2 Now, due process of law has been adopted by the first and second respondents. Hence, it is not necessary to keep the Petition pending. Accordingly, we dispose of the petition by passing the following order :-

ORDER

- (i) We direct the designated officer to pass order on notice dated 22nd July, 2017 for considering the reply of the third respondent and after granting opportunity of being heard to the third respondent. Appropriate orders shall be passed on the said notice as expeditiously as possible and in any event within a period of two months from today;
- (ii) Order passed on the notice be communicated to the petitioner as well as the third respondent;
- (iii) We make it clear that we have made no adjudication on legality and correctness of the notice dated 22nd July,

2017 and all contentions of parties in that behalf are expressly kept open;

(iv) The Petition is disposed of on above terms.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)