

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 56 OF 2017**

Shivanjali Co-op. Hsg. Society Ltd. ... Petitioner
Vs.
Municipal Corporation of Greater Mumbai and Ors. ... Respondents

Mr. Jamshed Ansari for the Petitioner.
Ms. Pallavi Thakkar for the Respondent Nos.1 to 3.

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

DATE : 7th JUNE, 2017

PC.

1 Heard the learned counsel appearing for the petitioner, the learned counsel appearing for the first and second respondents. The substantive prayer in this Petition under Article 226 of the Constitution of India is prayer clause (A) which reads thus :-

“(A) That this Hon'ble Court may be pleased to issue Writ of certiorari or a Writ in the nature of certiorari or any other appropriate Writ, order or direction under Articles 226 of the Constitution of India directing the Respondent Nos.1 to 3 to demolish and/or take appropriate legal action under Mumbai Municipal Corporation Act, 1888 and MRTP Act, 1966 against the illegal and unauthorized construction, being V.C. Fitness or any other name, (as described in

Exhibit -"B") carried out by the Respondent No.4 at the entrance of binding of the society;"

2 The grievance of the petitioner is that notwithstanding the representations made by the petitioner to the Municipal Officers, steps have not been taken by the Municipal Corporation in respect of the illegalities pointed out in the representations and in particular in various legal notices which are annexed to the Petition. The learned counsel appearing for the first to third respondents has no instructions.

3 Considering the narrow controversy involved in the Petition, the same is disposed of by passing the following order :-

ORDER

- (i) We direct the Assistant Commissioner in-charge of H/West Ward of the Mumbai Municipal Corporation to visit the premises subject matter of the Petition after notice to the petitioner and the fourth respondent;
- (ii) If the Assistant Commissioner finds any illegality associated with the structures subject matter of this Petition, he shall forthwith initiate action including an action of demolition in accordance with law. Necessary action shall be initiated by him within a period of one

month from the date of his visit;

(iii) We must clarify here that no action of demolition shall be taken by the Municipal Corporation without giving an opportunity of being heard to all affected parties.

(iv) We make it clear that we have made no adjudication on the merits of the controversy and all questions are left open to be decided by the concerned officer of the Mumbai Municipal Corporation;

(v) The Assistant Commissioner shall visit the property in question within two weeks from the date on which this order is uploaded;

(vi) The Petition is disposed of on above terms;

(vii) All concerned to act upon an authenticated copy of this order.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)