

Santosh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION (ST) NO. 3207 OF 2017  
WITH  
WRIT PETITION (ST) NO. 3208 OF 2017**

ACE Clubs & Resorts Pvt Ltd ...Petitioner  
*Versus*  
The Municipal Commissioner of MCGM & Ors ...Respondents

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**Mr Ashraf A Shaikh**, *for the Petitioner in both Petitions.*  
**Mrs Pooja Yadav**, *for MCGM/Respondent No.1.*  
**Mr MB Gaikwad**, *Sanitary Inspector present.*

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**CORAM: G.S. PATEL, J**  
**DATED: 23rd November 2017**

**PC:-**

1. **Rule.** Respondents waive service. By consent, Rule made returnable forthwith and taken up for hearing and final disposal.
2. The Sanitary Inspector, Mr MB Gaikwad, is present in Court to instruct Ms Yadav for the Municipal Corporation of Greater Mumbai (“MCGM”).
3. Mr Shaikh for the Petitioner also tenders a compilation which is taken on record and marked ‘X1’ for identification with today’s date. A

compilation of photographs tendered by the MCGM is taken on record and marked 'X2' for identification with today's date.

4. In each petition, the Petitioner impugns a directive issued by the Sanitary Inspector, which, while styled as an inspection report, directed the Petitioner to stop using an open area adjacent to its licensed eating house. There are two such eating houses, each with its own license; and hence two petitions.

5. In the first matter, in the impugned inspection report, which is of 21st November 2017 (there is some dispute about the date because at least in one of the two inspection reports there is visible overwriting), it is said that the Petitioner has violated certain conditions and has used the extra space and covered the side compulsory open space. There are no dimensions or measurements mentioned in this November 2017 inspection report and what is not referenced is a previous permission of 21st June 2017 that allowed the use of an outside open area of 22.48 sq. mtrs. on payment of a premium of about Rs.15,000/-. This has been paid. This permission is valid for one year till 31st June 2018. It allows the coverage of this area but only in the monsoon. It is unclear from the impugned inspection report of November 2017 whether there is a reference to this particular area of 22.48 sq. mtrs. or some additional area or there is some other violation. It is unclear whether the November 2017 inspection report alleges that the entire space is covered or that an additional space is covered or whether an area in addition to the permitted open area is being used.

6. It is not possible to permit the MCGM to operate with so great a lack of precision. If an action like this is being taken, especially following a permission specifically granted earlier, the action directing removal must be specific and precise. It should mention the additional area and should specify exactly and discernibly the so-called violations.

7. I will permit the MCGM to withdraw the impugned inspection reports with liberty to issue fresh ones after a proper inspection carried out with sufficient notice. If a fresh stop work or stop operation notice is issued, whether it is in the form of inspection report or otherwise, it will make specific reference to the permission granted on 21st June 2017 to show how this has been violated, if at all. It may also note any other violations but these will require to be precisely stated. The Petitioner will be given sufficient time of at least one week to comply to any stop work operation. The fresh inspection report will be issued by 6th December 2017.

8. Both petitions are disposed of in these terms. There will be no order as to costs.

**(G. S. PATEL, J.)**