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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 1405 OF 2015

Smt. Viashali Shivajirao Jondhale ... Petitioner
Versus
Kalyan Dombivali Municipal Corporation & ... Respondents
Ors.

Ms. Siddhi Bhosale, i/b Ms. Jyoti Chavan for the Petitioner.
Mr. A.S. Rao, for the Respondent Nos. 1 and 2.
Mr. Aashish Satpute, i/b Mr. Aniket V. Nikam, for Respondent No.3.
Mrs. R.A. Salunkhe, AGP for Respondent No.4.

**CORAM: A.S. OKA AND
RIYAZ I. CHAGLA, JJ.**
DATED: 26TH MARCH 2018.

PC:-

1. Heard learned counsel appearing for the first and second Respondents and the learned counsel appearing for the third Respondent.
2. The learned counsel appearing for the first and second Respondents as well as third Respondent seek time. On 7th March 2016, the first and second Respondents and third Respondent had waived notice of this Petition. On 24th July 2017 a fresh notice was issued as none appeared for the Respondents on that date. The first Respondent has not filed reply.
3. The grievance of the Petitioner is that notwithstanding the

order dated 25th August 2014 (Exhibit 'C' to the Petition) passed by the first and second Respondents in exercise of power under Section 260 of the Maharashtra Municipal Corporations Act, 1949 (for short "the said Act"), effect has not been given to said order by demolishing the structure subject matter of the said order (Exhibit 'B' to the Petition). The order dated 25th August 2014 has been passed after giving show cause notice. It is not the case of the first and second Respondents or the third Respondent that the order dated 25th August 2014 has been set aside or recalled.

4. Therefore, the Petition need not be kept pending and we dispose of the Petition by way of passing following order:-

a) The second Respondent shall examine whether there is any legal impediment in the form any prohibitory order of Court of law or competent authority which prevents the first and second Respondents from executing and implementing the order dated 25th August 2014.

b) The aforesaid aspect shall be examined by the second Respondent within a period of one month from today;

c) If the second Respondent finds there is no legal impediment in the way of implementing the order dated 25th August 2014, the second Respondent shall take action of

demolition in terms of the said order within a period of two months from today;

d) If the second Respondent finds that there is a legal impediment in the way of implementing the order dated 25th August 2014, he shall issue communication in that behalf to the Petitioner along with necessary supporting documents within a period of 6 weeks from today;

e) The Petition is disposed of on above terms.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)