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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2275 OF 2017

Surendra Bahadur Udres Singh ...Petitioner
vs.
Mira Bhayandar Mun. Corporation
& Others ...Respondents

Mr.Sandeep Mishra for the Petitioner
Mr.R.S.Apte, Senior Advocate i/b Mr.M.S.Lagu for the
respondent Nos.1 and 2.
Ms R.A.Salunkhe, AGP for respondent Nos.3 and 4.

CORAM : A.S.OKA, &
 RIYAZ.I.CHAGLA, JJ.
DATE : JULY 3, 2018

P.C.:

1 The learned senior counsel for the respondent Nos.1 and 2 is present. Notice of contempt was issued to the Commissioner of the Mira Bhayander Municipal Corporation. Pursuant to the notice, the Municipal Commissioner has tendered affidavit affirmed on 2nd July 2018.

2 The grievance made in this petition under Article 226 of the Constitution of India is that illegal structures have been erected on 18 meter wide Development Plan Road within the jurisdiction of the respondent No.1-Municipal Corporation. Therefore, by order dated 15th February 2018, this Court directed the Municipal Corporation to carry out survey for deciding whether any encroachments

have taken place on the Development Plan Road. On 18th April 2018, this Court noted that the stand taken in the affidavit in reply filed by the Ward Officer was inconsistent. Therefore, a direction was issued that appropriate Officer of the first respondent shall file an affidavit setting out whether survey has been carried out to verify whether encroachments have been made on the Development Plan Road. As per the order dated 3rd May 2018, the Municipal Commissioner was directed to appoint any superior Officer to comply with the solemn statement made by the learned counsel for the Municipal Corporation on 15th February 2018. Compliance was to be reported by 12th June 2018. As compliance was not reported, a show cause notice was ordered to be issued to the Municipal Commissioner under the order dated 12th June 2018.

3 Affidavit of the Municipal Commissioner filed in response to the show cause notice records that a survey was carried out as late as on 20th June 2018. It was revealed that encroachments made by the added respondents on the Development Plan Road were found to have been removed and the said site is open. To the affidavit tendered today of the Municipal Commissioner, a copy of the letter dated 28th June 2018 addressed by the petitioner to the Municipal Commissioner has been annexed in which even the petitioner has accepted that the construction made by the added respondent on the Development Plan Road has been removed. Though belatedly, the Municipal

Corporation has made compliance. Therefore, by accepting the apology tendered by the Municipal Commissioner, show cause notice issued earlier deserves to be discharged:

4 Accordingly, we pass the following order:

(I) By accepting the apology tendered by the Municipal Commissioner, we discharge the contempt notice issued under the order dated 12th June 2018;

(II) As the encroachments made on the Development Plan Road have been removed, nothing survives in this petition and the same is disposed of.

(RIYAZ.I.CHAGLA,J.)

(A.S.OKA,J.)