

Rajshree More

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.170 of 2018**

Mohammed Aslam Mohd. Habib Shaikh	..Petitioner
v.	
Municipal Corporation of Greater Mumbai & Anr.	..Respondents.

Mr.Mohit P. Jadhav, Advocate for the petitioner.

Ms.K.H. Mastakar, Advocate for the respondent/BMC.

**CORAM : A.S. OKA &
P.N. DESHMUKH, JJ.**

DATE : 5th FEBRUARY, 2018

PC.

1 Heard the learned counsel appearing for the petitioner and the learned counsel appearing for the respondents. The learned counsel for the petitioner states that the petitioner is present before the Court and on his instructions, the learned Counsel states that the petitioner undertakes to withdraw L.C. Suit No.1874 of 2016 filed by the petitioner in the City Civil Court. On instructions he states that the petitioner desires to apply for regularization of the structures subject matter of the notice dated 22nd March 2016 and the order dated 2nd July 2016. The petitioner has given undertaking which is marked as U1 for identification in which he has undertaken to remove the offending structure in the event the respondents do not regularize the structure.

2 Thus, the petitioner has accepted that the structure subject matter of the impugned notice and impugned order is illegal. We accept the undertaking of the petitioner to withdraw L.C. Suit No.1874 of 2016. We accept the undertaking of the petitioner dated 3rd February 2018 (marked as U1 for identification). Hence we pass following order :

ORDER

(i) It is open for the petitioner to make an application for regularization of the subject structure within a period of 6 weeks from today. Application shall be made through a licensed Architect by On-Line mode. The application made by the petitioner shall be decided by the concerned officer of the Mumbai Municipal Corporation within a period of sixty days from the date of filing of the application.

(ii) Order passed on the application be communicated to the petitioner's Architect. Till the date of communication of the order to the petitioner's Architect, the action of demolition shall not be taken on the basis of impugned order dated 2nd July 2016. In the event the structure is regularized, it is obvious that the impugned order will not be acted upon.

(iii) In the event the application for regularization is rejected and if the petitioner fails to remove the structure within a period of one month from the date on which the order of rejection is communicated to his Architect, without prejudice to other remedies of the respondents, they shall forthwith take action of demolition of the illegal structure without issuing any further notice to the petitioner.

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

(PN. DESHMUKH, J)

(A.S. OKA, J)