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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 44 OF 2018
IN
WRIT PETITION NO. 1999 OF 2017**

Juhu Beach Life Guard Association ... Petitioner
Versus
Municipal Corporation of Greater Mumbai & 2 ... Respondents
Ors.

Mr. Pradeep Havnur, for the Petitioner / Applicant.
Ms. Vandana Mahadik, for the Respondent – BMC.
Ms. Geeta Shastri, AGP, for Respondent Nos. 2 and 3.
Ms. Kavita Anchan, i/b M.V. Kini & Co. for the Respondent No.4.

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

PC:-

1. We have perused prayers in this Notice of Motion. As far as the prayer (a) is concerned, it is in the nature of final relief and in any event, a watch tower cannot be constructed by the Applicant / Petitioner without the permission of the concerned authorities. Prayer (b) is also in the nature of a final relief. In fact, the prayer (c1) in the main Petition contains the same prayer. As far as the prayer (c) is concerned, in that sense it is not a prayer but it is a contention raised by the Petitioner which can be always raised in support of prayer clause (c1). As far as the prayer (d) is concerned, today, the fourth Respondent has filed an Affidavit of Kalavathi P. the Assistant General Manager (E-C / Land

Management). In the Affidavit, it is stated that proceedings under Section 28A (a) and 28A(c) read with Section 2(b) of the Airport Authority of India Act, 1994 have been initiated for eviction of the Petitioner and the Eviction Officer has issued a show cause notice dated 28th February 2018.

2. Therefore, subject to observations made above, no relief can be granted to the Applicant in this Notice of Motion. However, as far as the eviction proceedings are concerned, a limited relief deserves to be granted. Accordingly, we dispose of this Notice of Motion by passing the following order:-

a) For the reasons recorded above, reliefs in terms of the prayer clauses (a) to (c) cannot be considered in this Notice of Motion.

b) If an order of eviction is passed against the Applicant by the Eviction Officer of the Airport Authority of India, the said order shall not be implemented for the period of three weeks for the date on which the order is communicated to the Applicant to enable the Applicant to adopt proceedings against the said order. We make it clear that we have made no adjudication in the eviction proceedings.

c) The Notice of Motion is accordingly disposed of.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)