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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L)NO. 888 OF 2018

Mahendra Ganajand Arya

... Petitioner

vs.

Municipal Corporation of
Greater Mumbai and Anr.

... Respondent

Mr. Shardul Singh a/w. Ms. Pooja Karadia i/b. Nahush Shah Legal for the Petitioner.
Ms. Vira Shinde a/w. Ms. Pooja Yadav for the Respondent.

CORAM : A.K. MENON, J.

DATE : 14th AUGUST, 2018

P. C.

1. The challenge in this petition is to the speaking order dated 28th February, 2018 passed by the Assistant Engineer (B & F), Ward K/West directing removal of structure alleged to be unauthorised, pursuant to notice issued under section 351 of the Mumbai Municipal Corporation Act, 1888. The challenge to the order is on the basis that at the time of hearing the sanctioned plan of the structure was not available with the petitioner or with the Corporation. There is a controversy as to whether the designated officer heard the petitioner at all.

2. However, today it is stated on behalf of the Corporation that sanctioned plan has since been located and a copy thereof has been provided to the petitioners. In

the circumstances the Corporation shall now hear the petitioner afresh on the basis of the records that are now available with the parties.

3. In view of the above this petition can be disposed of at the stage of admission. By consent of parties the same is taken up for disposal and I pass the following order :

- (i) Impugned order dated 28th February, 2018 is hereby set aside.
- (ii) Respondent no. 2 shall hear the petitioner on his reply to the notice under section 351.
- (iii) The petitioner shall be at liberty to file an additional reply, if any with supporting documents in view of the fact that the sanctioned plan now being available with the petitioner. Additional reply if any to be filed within one week from today.
- (iv) Respondent no. 3 shall dispose the application within a period of eight weeks on receipt of additional reply, if any.
- (v) Petition is disposed of in the above terms.

(A.K. MENON, J.)

Rajeshwari
Ramesh
Pillai

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signed by
Rajeshwari
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