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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2332 OF 2016

Veena Upoor ...Petitioner
vs.
Municipal Corporation of
Greater Mumbai & Ors. ...Respondents

ALONG WITH
WRIT PETITION NO.2313 OF 2016

Devji Nenshi Palani & Ors. ...Petitioners
vs.
Municipal Corporation of
Greater Mumbai & Ors. ...Respondents

Mr.M.M.Vashi, Senior Counsel a/w Ms Aparna Devkar
i/b M.P.Vashi & Associates for the Petitioner/s in
both the petitions
Ms Vandana Mahadik for the respondent-MMC in both
the petitions
Mr.Anuj Dave i/b Vidhi Partners for respondent No.3
in both the petitions.

CORAM : A.S.OKA, &
P.N.DESHMUKH,JJ.
DATE : JANUARY 5, 2018

P.C.:

. Writ Petition No.2313 OF 2016 is Not on Board.
Taken on Board.

1 The facts in both the petitions are more or
less similar. The challenge is to the notices issued
by the Mumbai Municipal Corporation in exercise of
power under section 488 of the Mumbai Municipal
Corporation Act,1888. The notices were for

implementation of the final order passed on 1st January 2012 under section 351 of the said Act is for demolition of the subject structures.

2 Our attention is invited to the order dated 9th February 2016 passed by a Division Bench of this Court in Writ Petition (L) No.344 of 2016. In the said petition, similarly placed petitioners challenged the similar notices. In view of the undertakings filed by the said petitioners, time was granted to the petitioners till 9th May 2016 to remove the offending work/structures. Accordingly, the undertakings were filed by the petitioners therein.

3 It is not disputed that on the earlier date, time was granted to the learned counsel for the petitioners to take instructions whether the petitioners desire to file similar undertakings. Today, the learned senior counsel for the petitioners stated that the petitioners have not responded and therefore, he is unable to make any statement regarding filing of undertakings.

4 What is relevant is ground (g) in both the petitions. There is a categorical statement made therein that the petitioners in these petitions are willing to give undertakings as per the order dated 9th February 2016 in Writ Petition (L) No.344 of 2016. In view of the undertakings given by the petitioners in the said petition, it was directed that the orders made under section 351 of the said

Act shall not be implemented till 9th May 2016. The said order was passed to enable the petitioners therein to remove the offending work/structure. In fact, the undertakings were to remove the offending work/structure within a period of three months from the date of undertakings.

5 Now, the petitioners are not coming forward to file undertakings as per the stand taken on oath in clause (g) of both the petitions.

6 Therefore, no case of interference is made out under Article 226 of the Constitution of India. Writ Petitions are rejected.

(P.N.DESHMUKH,J.)

(A.S.OKA,J.)