

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1344 OF 2005**

M/s. Kalki Enterprises

..Petitioner

vs.

Municipal Corporation of Greater Bombay
and Ors.

...Respondents

Mr. R. M. Nakhwa I/b Mr. V.B. Dhawan for the Petitioner.

Ms. Pallavi Thakar for the Respondents.

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

DATE : 1st FEBRUARY, 2018

P.C.:

. Heard the learned counsel appearing for the Petitioner. It is not in dispute that this Petition will be governed by the decision of the Division Bench of this Court in Appeal No.801/2004 and, therefore, on the grounds urged in this Petition, no relief can be granted. However, the learned counsel for the Petitioner prays that a remedy of preferring an appeal for challenging the assessment of quantum may be protected.

2. Perhaps because of pendency of the case before the Division Bench that the present petition was entertained. Accordingly, liberty as prayed for deserves to be granted.

3. Writ Petition is disposed of in the light of the view taken by this Court in Appeal No.801/2004 (**The Municipal Corporation of Greater Mumbai & Ors. vs. Dalamal Tower Premises Co-operative Society Limited & Anr.**)

4. We make it clear that the remedy of the Petitioner of preferring an appeal under section 217 of the Mumbai Municipal Act, 1888 is kept

open. If appeal is preferred within a period of one month from today, the Appellate Court is bound to take a note of the fact that the present petition was lodged on 26th April 2005, it was entertained by this Court and that it remained pending till today.

5. On the prayer made by the learned counsel appearing for the Petitioner, ad-interim relief which was operative till today is extended by a period of 8 weeks from today.

(P.N. DESHMUKH, J)

(A.S. OKA, J.)