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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION No. 1889 OF 2016

Pradeepkumar Nanalal	...	Petitioner
Vs.		
The Municipal Commissioner, MCGM & Anr.	...	Respondents

Mr. Digjmaan Mishra i/b V. S. Pande, for the Petitioner.
Ms. Shital Mane, for Respondent No. 1 - MCGM
Ms. Megha Shigavan, h/f Mohit Jadhav, for the Respondent No. 2.

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

DATE : JANUARY 4, 2018

ORAL JUDGMENT : [PER : A. S. OKA, J.]

1. Rule. Learned advocate Ms. Shital Mane waives service of notice for Respondent No. 1. The learned advocate Ms. Megha Shigavan waives service of notice for Respondent No. 2. Considering the limited controversy, petition is immediately taken up for final disposal.

2. The Petitioner is claiming to be a tenant of the second Respondent in respect of the premises, more particularly described in paragraph 1 of the petition. The case of the Petitioner is that the second Respondent has carried out illegal conversion of residential premises into commercial premises and illegal structural changes have been made. The Petitioner is relying upon the representations made in that behalf to the first Respondent, the copies of which have been annexed at Exhibits “C” & “D” to the petition. The grievance raised in the petition is that no action has been taken on the basis of said representations. The learned counsel appearing for the first Respondent has no instructions. The learned counsel for the second Respondent, on instructions, states that second Respondent has not indulged in any illegal activities, as alleged in the petition.

3. In view of the aforesaid statements, we dispose of the petition and pass following order.

- (i) We direct the Designated Officer or any other Officer nominated by the Designated Officer of the concerned Ward to visit the subject building, after giving notice to the Petitioner and the second Respondent, with a view to

ascertain whether there is any substance in the allegations made by the Petitioner as regards the illegal change of user and illegal construction / structural changes;

- (ii) Site inspection shall be carried out within a period of three weeks from the date on which this order is uploaded;
- (iii) If the Officer finds that there is substance in the allegations made by the Petitioner, he shall take a decision and initiate appropriate action in that behalf, as expeditiously as possible. The decision taken by the Officer after site inspection shall be communicated to the Petitioner and the second Respondent within a period of six weeks from the date on which this order is uploaded;
- (iv) Needless to state that in the event the Designated Officer initiates action in respect of any illegal construction, the demolition of illegal structures shall not be carried out without giving an opportunity of being heard to the second Respondent as well as other persons affected thereby;
- (v) We make it clear that we have not made any adjudication on

merits;

- (vi) Rule is made absolute in the aforesaid terms.
- (vii) All concerned to act on an authenticated copy of this order.

Sd/-
[P. N. DESHMUKH, J.]

Sd/-
[A. S. OKA, J.]

Vinayak Halemath