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

WRIT PETITION (L) NO.1307 OF 2018

Mohammed Asim Haji Mohammed and Anr.

... Petitioners

Vs.

Mumbai Municipal Corporation and Ors.

... Respondents

Ms. Bhavna Punalekar I/by Mr. Nitin P. Dalvi for the Petitioners.

Ms. Vandana Mahadik for the Respondent – BMC.

Mr. S.D. Joshi I/by Mr. Devendra Singh for the Respondent Nos.2, 4, 6, 9, 11 & 16 to 18.

Mr. Vishal Chopade, Junior Engineer (L) Ward is present.

**CORAM : A.S. OKA &
RIYAZ I. CHAGLA, JJ.**

DATE : 15th JUNE 2018

P.C.

1 When we invited attention of the learned counsel appearing for the first respondent – Municipal Corporation to the order dated 3rd May 2018, she states that due process of law will be followed and action of demolition will be taken against those who have carried out illegal construction and those who are carrying out illegal construction. This statement is accepted which takes care of prayer clause (b). As far as prayer clause (c) is concerned, the petitioners are seeking access from the wall constructed by the first respondent – Municipal Corporation for creating 10 meter corridor abutting the main water pipeline. The petitioners have not pointed out any right vesting in

them which enjoins the first respondent – Municipal Corporation to protect their right of way. Therefore, the second prayer cannot be granted. As far as last substantive prayer which is prayer clause (d) is concerned, it is for the concerned party to apply for grant of benefit of TDR/ FSI by making out case of entitlement and therefore, a writ as prayed for cannot be issued. By accepting the statement made by the learned counsel appearing for the Municipal Corporation, we dispose of the petition.

2 Compliance affidavit with the statement which is recorded above shall be filed by the concerned Designated Officer on or before 31st July 2018. Place the petition for reporting compliance under the caption of “Directions” on 3rd August 2018.

(RIYAZ I. CHAGLA, J)

(A.S. OKA, J)