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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1867 OF 2017

Anthony Santan Fernandis ...Petitioner
vs.
The Mumbai Municipal Corporation
and others ...Respondents

Mr.G.T.Kanchanpurkar for the Petitioner
Ms Vandana Mahadik for the Respondent-MMC
Ms Sonali Jadhav i/b Mr.Kamlesh Ghumre for
respondent No.4-MMRDA
Mr. Sanjiv Sawant i/b Mr.A.P.Deshmukh for respondent
Nos. 5 and 6.

CORAM : A.S.OKA, &
RIYAZ.I.CHAGLA,JJ.
DATE : JUNE 4, 2018

P.C.:

1 The grievance made by the petitioner in this
petition under Article 226 of the Constitution of
India is that though the fifth respondent has
demolished the common wall between the flat
Nos.20/583 and 20/584 in the concerned building, the
Municipal Corporation has not taken any action. The
learned counsel for the petitioner relies upon
various representations made to the Assistant
Municipal Commissioner of the Mumbai Municipal
Corporation from time to time. The contention of
the fifth respondent based on certain orders passed
by the Authorities under the Maharashtra Co-
operative Societies Act,1960 is that essentially the
petitioner has a personal score to settle against
the fifth and sixth respondents and no illegality

has been committed by the said respondents. There is nothing placed on record to show that the Municipal Corporation has dealt with the complaints made by the petitioner. Accordingly, the petition need not be kept pending.

2 Accordingly, we dispose of the petition by passing the following order:

(i) We direct the Designated Officer of the concerned Ward to look into the complaints made by the petitioner the copies of which have been annexed to this petition. If necessary, the Designated Officer or the Officer nominated by him shall make a site visit of the concerned flats after notice to all concerned;

(ii) If the Designated Officer, after site visit finds that there is any illegality committed, he shall initiate action in accordance with law;

(iii) We make it clear that the actual action of demolition shall not be taken without giving an adequate opportunity of being hearing to all the persons affected thereby;

(iv) The decision taken on the representations shall be communicated by the Designated Officer to the petitioner within a period of two months from today;

(v) We have made no adjudication on the merits of the allegations made in the representations made by the petitioners and all issues are left open to be decided by the Designated Officer.

(RIYAZ.I.CHAGLA,J.)

(A.S.OKA,J.)