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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L)NO.1476 OF 2018

Mukesh Kumar S/o Phootermal Jain ...Petitioner
vs.
The State of Maharashtra & Ors. ...Respondents

Mr.Sushil Upadhyay i/b Mr.A.M.Saraogi for the
Petitioner
Mr.S.B.Gore, AGP for the respondent-State
Ms Geeta Joglekar for MMC
Mr.S.J.Manek for respondent No.3

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

P.C.:

1 The submission of the learned counsel appearing for the petitioner is that no notice was served to the petitioner by the Mumbai Municipal Corporation prior to service of notice dated 19th April 2018 (Exhibit-D to the petition). His submission was that notice under section 354 of the Mumbai Municipal Corporation Act,1888 has not been served to the petitioner. Yesterday, a compilation is tendered by the learned counsel for the Mumbai Municipal Corporation. The compilation shows that on the basis of the notice issued under section 354 of the said Act of 1888, evacuation notice was served to the petitioner on 22nd August 2014. She pointed out the signature of the petitioner acknowledging the service of evacuation notice. She also pointed out another notice dated 29th January 2015 was served to the petitioner and there is also

an acknowledgment signed by the petitioner showing the receipt of the said notice.

2 The learned counsel for the petitioner has tendered an affidavit. By filing affidavit the petitioner is disputing the signatures of the petitioner relied upon by the learned counsel for the Mumbai Municipal Corporation.

3 If the petitioner had knowledge about the notice under section 354 of the Mumbai Municipal Corporation Act, 1888 and if the petitioner has been served with the aforesaid notices, this writ petition cannot be entertained. However, the petitioner is disputing his signatures.

4 Hence, this petition involves disputed questions of facts. More appropriate remedy for the petitioner will be to file a civil suit. The learned counsel for the Mumbai Municipal Corporation states that the Mumbai Municipal Corporation is likely to implement the notice under section 354 of the Mumbai Municipal Corporation Act, 1888 only after all occupants vacate the building.

5 Subject to what is observed above, we decline to entertain this petition. Writ petition is rejected. It will be open for the petitioner to approach the civil Court for seeking appropriate relief.

(RIYAZ.I.CHAGLA,J.)

(A.S.OKA,J.)