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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 1979 OF 2018**

Zahid Hussain Mirza

... Petitioner

Vs.

The Municipal Corporation of Greater Mumbai & Ors.

... Respondents

Mr. Ram U. Singh for the Petitioner.

Ms. Vandana Mahadik for the Respondent - BMC.

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

DATE : 25th JUNE 2018

P.C.

. **Not on board. Taken on board.**

1 Heard the learned counsel appearing for the petitioner. The challenge in this petition under Article 226 of the Constitution of India is to the notice dated 3rd April 2018 under Section 351 of the Mumbai Municipal Corporation Act 1888. The allegation in the notice is that the petitioner has carried out unauthorised construction of ground floor structure with B.M. Walls, A.C. sheet roof supported on M.S. angle having measurements mentioned in the notice. An order was passed on 18th May 2018 in terms of the show cause notice directing demolition of the structure.

2 In this petition under Article 226 of the Constitution of India, the petitioner has relied upon the photographs of the structure which are marked as Exhibit – 'U'. The petitioner claims that the structure subject matter of the notice and order has been partly demolished. Photographs on pages 155 and 156 (Exhibit – 'U') show that substantial part of the structure has been demolished. The said photographs have been taken on 28th May 2018. Today, an affidavit of the petitioner is produced along with copies of fresh photographs taken on 22nd June 2018. If the said photographs and in particular photograph at page 164 is compared with the first photograph at page 155, it is crystal clear that without seeking permission of the Municipal Corporation or this Court, the petitioner has carried out reconstruction and is carrying on business in the reconstructed premises.

3 Considering this conduct of the petitioner, he cannot be allowed to invoke discretionary and equitable jurisdiction of this Court under Article 226 of the Constitution of India. The petition is accordingly rejected.

(RIYAZ I. CHAGLA, J)

(A.S. OKA, J)