

Shailaja

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.252 OF 2014
WITH
CHAMBER SUMMONS (L) NO.231 OF 2016

Mr. Placid Joseph D'Souza	]	Petitioner
Vs.		
The Commissioner, Bombay Municipal Corporation of Greater Mumbai and Ors.	]	Respondents

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Mr. Ashok B. Tajane, for Petitioner.
Ms. Vandana Mahadik, for Respondents No.1 and 2-B.M.C.
Mr. Pralhad Paranjape and Ms. Dipti Shah, for Respondent No.3.

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

DATE : 14TH FEBRUARY, 2018.

P.C.

When a specific query was raised by the Court to the learned Advocate for the petitioner as to when Toilet/Urinals which are subject matter of prayer clause (b) were constructed, on instructions, he states that the same have been constructed in the year 1979. The present Petition has been affirmed on 7th October, 2013. He states that the Petition is filed as first and second respondents have unauthorizedly carried out repairs or re-construction work in respect of the said Toilets/Urinals.

2. The petitioner has not made grievance about the existence of the Toilets/Urinals right from 1979 onwards. He claims that the same are not constructed by him.

3. Whether such structures are on private property of the petitioner and whether the petitioner has constructed the same are disputed questions of fact and, therefore, more appropriate remedy for the petitioner is to file a suit in the Civil Court. Accordingly, we decline to entertain this Petition under Article 226 of the Constitution of India. The Petition is disposed of. However, the remedy of the petitioner of filing appropriate proceedings before the Civil Court is kept open. In view of disposal of Writ Petition, Chamber Summons (L) No.231 of 2016 does not survive, hence, disposed of.

[P.N. DESHMUKH, J.]

[A. S. OKA, J.]