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

NOTICE OF MOTION NO. 372 OF 2018
IN
WRIT PETITION NO. 859 OF 2016

Shah Mohammed Choudhary .. Applicant

In the matter between :

Shah Mohammed Choudhary .. Petitioner

Vs.

Municipal Corporation for Gr. Mumbai .. Respondent

Mr. Amarendra P. Jha for applicant/Org. petitioner.
Ms. Vandana Mahadik for respondent – MCGM.

CORAM: NARESH H. PATIL, ACTING CJ. &
G. S. KULKARNI, J.

OCTOBER 19, 2018.

P.C.

1. The applicant/original petitioner prays for following substantial
reliefs :-

(a) That this Hon'ble Court may be pleased to direct to the
Respondent to comply with the order dated 28/3/2016 as the
Hon'ble Court passed an order that the Respondent shall restore

water connection of the Petitioner since the water supply has been disconnected without giving any hearing to the Petitioner.

(b) This Hon'ble Court may be pleased to direct to the Respondent that settled position in law that if any action – administrative or otherwise is likely to cause adverse consequence on any person, then principles of natural justice to be followed.

(c) This Hon'ble Court may be pleased to direct to the Respondent that it is not in dispute that water supply was granted in favour of the Petitioner by the Respondent after verification of the documents.

(d) This Hon'ble Court may be pleased to direct to the Respondent that being the position of Respondent should not have disconnected water supply without giving the petitioner an opportunity of being heard. In the event any adverse order is passed, said order shall not be implemented for a period of two weeks thereafter, in the instant cse, no Written Order whatsoever is communicated to the Petitioner.

(e) This Hon'ble Court may be pleased to direct to the Respondent that water connection restored on 13/04/2016, after the order of this Hon'ble Court on 28/03/2016 and despite being the order in operation, Respondent Re-disconnected the water supply willfully and deliberately to the Petitioner on 25/10/2016, that Respondent be pleased to direct to connect the water supply to the Petitioner as a citizen should not be deprived of the most elementary and fundamental need for human existence by

disconnecting water connection arbitrarily and vindictively. Apart from violation of the Order passed by the Hon'ble Court in the Writ Petition the question also involved, therefore, of the violation of the right to life to the Petitioner and his family. A copy of Order dated 28/03/2016.

(f) The Hon'ble Court may be pleased to direct the Respondent in the light of Order dated 16.11.2017 if the Petitioner is otherwise aggrieved by the disconnection of the Water supply, the Petitioner has other remedies. The Petitioner took out notice of motion seeking permission for restoration of water supply as re-disconnected by the Respondent on 25/10/2016. A copy of order dated 16/11/2017.

(g) The Hon'ble Court be pleased to direct the Respondent as the Respondent claims to have passed an order dated 07/07/2016 in Order to comply with the direction given by the Hon'ble Court on 28/03/2016 as the Respondent claims hearing to have kept in the office of the respondent if any order passed by the Respondent on 07/07/2016 in the office of the Respondent, they may produce the record of hearing and order passed on 07/07/2016.

(h) The petitioner refers Petition(s) for Special Leave to Appeal (C) No. (A) 5725/2018 arising out of Impugned Final Judgment and order dated 16/11/2017, in C.P. No. 4 of 2017, passed by this Hon'ble Court. A copy of order dated 23/04/2018.

(i) The Hon'ble Court may be pleased to direct to the

Respondent in case any order is passed to take action in two weeks after such order, was not it necessary for the Respondent to show the proceedings recording the so called hearing granted to the Petitioner and the actual order passed of disconnection.

2. Writ Petition No. 859 of 2016 was disposed of by this court (Coram: V. M. Kanade and M. S. Karnik, JJ.) by order dated 28/3/2018. There are no substantive proceedings, which are pending before this court. The applicant / original petitioner cannot, therefore, make the aforesaid prayers in a Notice of Motion. The applicant has approached this court with the same grievance now. The applicant may resort to appropriate alternate remedy as available in law.

3. Notice of Motion is disposed of accordingly.

G. S. KULKARNI J.

ACTING CHIEF JUSTICE