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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.3047 OF 2017**

Harish Kumar B. Singh and Ors.

... Petitioners

Vs.

State of Maharashtra and Ors.

... Respondents

Mr. Madhur Rai i/by PRS Legal for Petitioners.

Ms. Deepali Patankar, AGP i/by Ms. PH. Kantharia, Government Pleader
for Respondent – State.

Ms. Shital Mane for Respondent – BMC.

**CORAM : A.S. OKA &
P.N. DESHMUKH, JJ.**

DATE : 9th FEBRUARY, 2018

PC.

1 Notice for final disposal was issued on 12th December, 2017. The facts of this Petition are more or less similar to the facts of the Writ Petition (L) No.2455 of 2017. Hence, for the reasons recorded in the order passed today in Writ Petition (L) No.2455 of 2017, we pass the following order :-

ORDER

- (i) We direct an authorised representative of the petitioners and appropriate officer of the second respondent to remain present on the site on 5th March, 2018 at 11.00

am when the officers of the second respondent – Municipal Corporation will carry out measurement in presence of representative of the petitioners for deciding whether any part of the construction made by the petitioners subject matter of this Petition falls within the distance of 10 meters from Tansa Pipeline. A sketch and panchanama shall be drawn on the site;

- (ii) If the officers of the Municipal Corporation on taking measurement find that no part of the subject structures of the petitioners falls within the distance of 10 meters from Tansa Pipeline, action of demolition of the structures or any part thereof on the basis of the directions contained in PIL No.140 of 2006 shall not be taken. A copy of the sketch and panchanama drawn at the site shall be immediately handed over to the representative of the petitioners at the site;

- (iii) In the event, the Municipal officers find that structures of the petitioners or parts thereof fall within the distance of 10 meters from Tansa Pipeline, we direct that action of removal shall not be taken on the basis of the impugned notices. We direct the Assistant Engineer

or any other officer competent to pass orders after considering the reply dated 22nd May, 2017 and after considering the documents produced alongwith reply to pass a reasoned order;

(iv) The reasoned order shall be communicated to the petitioners. Till the date of communication of the order, action of demolition shall not be taken in respect of the structures subject matter of this Petition on the basis of the directions issued in PIL No.140 of 2006. If the orders be adverse to the petitioners, the action of demolition shall not be taken for a period of three weeks from the date on which the orders are served to the petitioners;

(v) We make it clear that we have made no adjudication on the merits of the claim made by the petitioners and all contentions are kept open;

(vi) Rule is made partly absolute on above terms.

(PN. DESHMUKH, J)

(A.S. OKA, J)