

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

WRIT PETITION (LDG.) NO. 3067 OF 2017

Rajendra Navaratmal Nolkha.	...	Petitioner.
V/s.		
State of Maharashtra.	...	Respondents.

Mr.Vinod Sanglikar with Mr.Tushar Kochale for the petitioner.
Mr.S.B.Gore, AGP for respondent No.1.
Ms.K.H.Mastakar for respondent Nos.2 and 3.

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

DATE : 12th February 2018.

PC.:

Heard the learned counsel appearing for the petitioner, learned counsel appearing for the second and third respondent and the learned AGP for the first respondent- State.

2. On the basis of directions issued in PIL No.140/2006, the second and third respondents are taking steps for removal of structures constructed within the distance of 10 meters from main water pipeline. Therefore, the notice subject matter of challenge is issued to the petitioner on the basis that the structure of the petitioner is situated within the distance of 10 meters from Tansa Pipeline. The specific case made out in the petition is that the petitioner's structure subject matter of the impugned notice is not situated within the distance of 10 meters from Tansa Pipeline. In fact, the order dated 29th January 2018 of this Court notes that the Municipal Corporation has instructed the concerned officer to take fresh measurements. The learned counsel appearing for the

second and third respondents submits that fresh measurements have not been taken as of today and seeks further time of two weeks to take fresh measurements.

3. Hence, we dispose of this petition by passing the following order:

- (i) We direct the petitioner and the appropriate officer of the Municipal Corporation to remain personally present at the subject site on 28th February 2018 at 11.00 a.m. for carrying out measurements for deciding whether the structure of the petitioner subject matter of this petition or any part thereof is situated within the distance of 10 meters from Tansa Pipeline;
- (ii) After the measurement, a Panchanama and Sketch shall be drawn by the concerned Municipal Officer;
- (iii) If it is found that the subject structure is not situated within the distance of 10 meters from Tansa Pipeline, action of demolition shall not be taken on the basis of the impugned notice;
- (iv) If the subject structure or any part thereof is situated within the distance of 10 meters from Tansa Pipeline, intimation thereof shall be served by the Municipal Corporation to the petitioner along with copies of Sketch and Panchanama. In such event, the structure shall not be demolished for a period of three weeks from the date of service of the intimation to the petitioner.
- (v) All contentions of the parties are kept open;
- (vi) All concerned to act upon an authenticated copy of this order.

(PN.DESHMUKH, J.)

(A.S.OKA, J.)