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

WRIT PETITION NO.2959 OF 2012

Smt. S.G.P. Barnes

... Petitioner

Vs.

The Commissioner of Mumbai and Ors.

... Respondents

WITH

CHAMBER SUMMONS NO.294 OF 2015 WITH

NOTICE OF MOTION NO.339 OF 2016 WITH

NOTICE OF MOTION NO.348 OF 2016

Ms. S.G.P. Barnes Petitioner in person present.

Mr. S.B. Gore, AGP for the Respondent – State.

Ms. K.H. Mastakar for the Respondent – BMC.

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

DATE : 9th JULY 2018

P.C.

1 Perused the prayers made in the petition as amended. Essentially the grievance of the petitioner is about the failure of the authorities to take action of demolition in respect of the structures subject matter of this petition. There is a reply filed by Shri Bipin Pandharinath Kharade, Assistant Engineer (Building and Factory) of Mumbai Municipal Corporation which is dated 5th July 2017. It is pointed out in the reply that as the subject structure is on a declared slum, necessary clarification was sought from the Deputy Collector. It is

pointed out that pending clarification, a notice under Section 351 of the Mumbai Municipal Corporation Act, 1888 was served to the concerned persons and on 31st August 2015 an order has been made of demolition. It is pointed out that in view of ad-interim relief granted by the City Civil Court in a civil suit filed in the year 2015, the structure could not be demolished. The affidavit records that the Deputy Municipal Commissioner (R/E) has initiated action against the erring officers of the Municipal Corporation and even a charge sheet has been served by the Municipal Corporation. Hence, no relief can be granted as of today in the writ petition. Needless to add that the Mumbai Municipal Corporation shall take appropriate steps to defend the suit and notice of motion therein, if pending. It is obvious that as and when ad-interim order is vacated, the Municipal Corporation is bound to take all possible steps to implement the order passed under Section 351 of the said Act of 1888. The enquiry initiated against erring officers shall be taken to its logical conclusion in accordance with law. Subject to above directions, the petition is disposed of. All pending chamber summons and notices of motions stand disposed of.

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Pallavi
Mahendra
Wargaonkar
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(RIYAZ I. CHAGLA, J)

(A.S. OKA, J)