

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

WRIT PETITION (LDG.) NO. 3315 OF 2017

Dashrath Waman Gaikwad and others. ... Petitioners.

V/s.

The Municipal Corporation of Greater
Mumbai and others. ... Respondents.

A.P.Khanduri with Vineet Sukumaran for the petitioners.

Ms.Shital Mane for the respondent-MMC.

Mr.A.P.Kulkarni for respondent No.2

Mr.Sukanta Karmakar, AGP for respondent No.3.

CORAM : A.S.OKA AND RIYAZ I. CHAGLA, JJ.

DATE : 1st March 2018.

P.C.:

After having heard the learned counsel for the parties, we find that this petition will be covered by the judgment and order passed by us today in Writ Petition No.454/2016.

2. Therefore, for the reasons recorded in the judgment and order dated 1st March 2018 in Writ Petition No.454/2016, we dispose of this petition by passing the following order:

(i) We hold that in the facts of the case and for the reasons set out in the judgment and order dated 1st March 2018 delivered in Writ Petition No.454/2016, the action of

demolition proposed to be taken on the basis of impugned notice will not amount to following due process of law;

(ii) We, therefore, direct the respondents that the structures of the petitioners subject matter of this petition shall not be demolished without following due process of law as indicated in the aforesaid judgment and order in Writ Petition No.454/2016;

(iii) We make it clear that we have not made final adjudication on the question whether the structures subject matter of this petition are protected even though the same have been constructed without obtaining development permission. We have also not made final adjudication on the question whether the lands below the structures of the petitioners are privately owned. All these issues will have to be decided when due process of law is adopted by the respondents or any one of them;

(iv) Rule is, therefore, made absolute on the above terms.

(v) All concerned to act on an authenticated copy of this order.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)