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

WRIT PETITION (L) NO.3568 OF 2017

Ramshankar C. Gupta and Ors.

... Petitioners

Vs.

Municipal Corporation for Greater Mumbai and Anr.

... Respondents

None for the Petitioners.

Ms. Vandana Mahadik for the Respondent No.1.

Mr. Sukanta Karmakar, AGP for the Respondent No.2.

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

DATE : 15th JUNE 2018

P.C.

1 None appeared for the petitioners though the petition is called out on two occasions. Perused the order dated 20th April 2017 which records the statement of the learned counsel appearing for the petitioners that the petition survives as regards only 10th and 11th petitioners. Paragraph 2 of the said order reads thus :-

“2 Inviting our attention to paragraph 8 of the additional affidavit of Petitioner Nos.10 and the document annexed at page 22 of the said affidavit, the learned counsel appearing for the petitioners submits that the structures of the petitioner Nos.10 and 11 are situated on the property bearing CTS No.487 which is a privately

owned land. The learned counsel appearing for the Municipal Corporation seeks time to take instructions on this aspect. Place the Petition on 27th April 2018 high upon board. Ad-interim relied will continue to operate as far as the Petitioner Nos.10 and 11 are concerned.”

2 In view of what is stated in paragraph 2, we make it clear that before evicting the 10th and 11th petitioners by invoking Section 314 of the Mumbai Municipal Corporation Act, 1888 the Municipal Corporation will verify whether the structures of the two petitioners are on a private land. If the structures are on a private land it is obvious that recourse cannot be taken to Section 314 and due process of law will have to be followed.

3 Subject to what is observed, the petition is disposed of.

(RIYAZ I. CHAGLA, J)

(A.S. OKA, J)