

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.3698 OF 2017**

Suresh Vitthal Thadge

..Petitioner

vs.

The Municipal Corporation of Greater
Bombay and Another

...Respondents

Mr.Manish Mazgaonkar for the Petitioner.

Mr. N. V. Walawalkar, Senior counsel a/w Ms. Pallavi Thakar for the
Respondent No.1.

Mr. Rui Rodrigues i/b B.R. Oza & Co. for the Respondent No.2.

Mr.Sadique Khan, Designated Officer-III 'N' Ward.

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

DATE : 4th JANUARY, 2018

P.C.:

. Not on board. Taken on board.

2. Our attention is drawn to the averments made in the Petition and in particular the averments made in clause (b) of paragraph 2 of the Petition. Learned Senior counsel appearing for the Municipal Corporation states that the toilet block referred in clause (b) has not been demolished by the Municipal Corporation. He also invited our attention to the order dated 21st December 2017 passed by the learned Single Judge of this Court in First Appeal No.627/2012 and connected Appeal. We accept the aforesaid statement made on instructions of Shri Sadique Khan..

3. The Respondent No.2 is a private party against whom a writ cannot be issued. Therefore, if the Respondent No.2 has demolished the toilet block, no relief can be granted under Article 226 of the Constitution of India against the said Respondent and that the Petitioner will have to adopt appropriate remedy available to him against the said Respondent.

4. A copy of the order dated 21st December, 2017 and photographs tendered by the learned Senior counsel for the Municipal Corporation are taken on record and marked 'X-1' and 'X-2' for identification.

5. By accepting the statement made on behalf of the Respondent No.1 on instructions of Shri Sadique Khan, Assistant Engineer (B & F) 'N' Ward, we dispose of this Petition.

6. We make it clear that the remedies available to the Petitioner against the Respondent No.2 are expressly kept open.

(P.N. DESHMUKH, J)

(A.S. OKA, J.)