

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.737 OF 2016**

Mr. Arjun Kalicharan Belel ..Petitioner.

v.

Mumbai Municipal Corporation and others ..Respondents.

Mr. Datta Mane for the petitioner.

Mr. Pankaj Kawli i/by Patil Gangarkar & Company for the respondent Nos.4 and 5.

Mr. Satish Kamat for the respondent No.6.

Mrs.Vandana Mahadik for the MMC.

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

DATE : 12th MARCH, 2018

P.C.

1 Heard the learned Counsel appearing for the petitioner, the learned counsel appearing for the 1st to 3rd respondents, the learned counsel appearing for 4th and 5th respondents and the learned counsel appearing for the 6th respondent.

2 Perused the affidavit of Shri Santoshkumar Dhonde, Assistant Commissioner, 'S' Ward which is dated 25th July 2017. Shri Vijaykumar T. Wagh, Assistant Engineer (Building and Factory) 'S' ward, has tendered affidavit affirmed on 9th March 2018. It records that on the basis of the notice issued on 8th July 2017, a speaking order has been passed on 28th February 2018 by the Designated Officer of the concerned Ward directing demolition of 15 rooms. A copy of the said order is annexed to the affidavit tendered today.

3 The grievance in this petition under Section 226 of the Constitution of India is about the failure of the 1st respondent to take action of demolition against 15 illegal rooms. Now, an order of demolition has been made by the first respondent-Municipal Corporation. The learned Counsel appearing for the 4th and 5th respondents has certain grievances about the said order. He states that the said order dated 28th February 2018 was served upon them on 8th March 2018. If the 4th and 5th respondents are aggrieved by the said order, it is always open for them to challenge the same in accordance with law.

4 Now, the order dated 28th February 2018 will have to be taken to its logical conclusion subject to right of the persons affected thereby to challenge the same in accordance with law. Hence, we proceed to pass the following order :

ORDER

1. If the order of demolition is not implemented by the 1st respondent-Corporation within a reasonable time, it will be always open for the petitioner to file a fresh petition after making appropriate representation to the Municipal Corporation.

2. We make it clear that disposal of this petition will not prevent the parties affected by the order dated 28th February 2018 from challenging the same in accordance with law.

3 The Petition is accordingly disposed of.

(RIYAZ.I.CHAGLA, J)

(A.S. OKA, J)

