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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2287 OF 2014**

Austin Jerome Rodricks	...Petitioner
<i>Versus</i>	
The Mumbai Municipal Corporation & Ors	...Respondents

**WITH
CHAMBER SUMMONS NO. 41 OF 2017
IN
WRIT PETITION NO. 2287 OF 2014**

Austin Jerome Rodricks	...Petitioner
<i>Versus</i>	
The Mumbai Municipal Corporation & Ors	...Respondents
<i>And</i>	
Doleen Wd/o Abelon Edward D Mello & Ors	...Proposed Respondents

Ms Eventa A Gonsalves, *with Reyden L Gonsalves, for the Petitioner.*
Mr SB Gore, *AGP, for Respondents Nos. 2 & 9-State.*
Mr Sandeep S Jinsiwale, *for Respondents Nos. 3 to 5.*
Mr YS Bhate, *for Respondents Nos. 6(a) to 8.*
Mr Mandar Bangale, *i/b The Law Point, for Respondent No. 10.*
Mr Javed Shaikh, *with Vandana Mahadik, for the MCGM.*
Mr Ramakant Biradar, *Assistant Commissioner, R/C Ward, MCGM,*
is present.
Mr Nitin Shinde, *Sub-Engineer, (B&F), R/C, MCGM, is present.*
Mr DD Kantharia, *AE (B&F), R/C, MCGM, is present.*
Mr Paresh Panchal, *Assistant Engineer, Building & Proposal, Western*
Suburb, is present.

**CORAM: S. C. DHARMADHIKARI &
G.S. PATEL, JJ**
DATED: 8th July 2019

PC:-

1. As per the orders passed earlier, today the officer is present with the records.
2. Our attention has been invited to the affidavit of the Municipal Corporation filed earlier.
3. From the original records a plan is produced (copy at page 91 of the petition) and it is stated that after this Court's earlier orders and prior interventions the repeated construction activity carried out unauthorizedly and illegally has been dealt with. In pursuance of that the structures identified as residential or stables (for horses and pigs) have been removed. They are no longer at site.
4. So far as the bungalow of ground plus one floor and another structure are concerned, they have been identified for issuance of notice and the proposed demolition. The Municipal Corporation's Advocate on instructions state that the process will be initiated and concluded as expeditiously as possible and in any event within a period of three (3) months from the date of communication of this order.

5. Needless to clarify that the proposed action of the Corporation shall not in any manner affect the pending litigation as also any interim order passed by the competent Civil Court therein. The actions of the Municipal Corporation in relation to such property would have to abide by the final adjudication in the legal proceedings.

6. Further needless to clarify that any private rights or private disputes stated to be affected by the intervention of this Court earlier can be resolved uninfluenced by the outcome of this litigation and the order passed by this Court.

7. Our anxiety was that the unauthorized construction and encroachments *inter alia* on Government land/ public property being CTS No. 1607 should no longer be existing and continuing at site.

8. That having been removed, possibly because of the monsoon one will be able to notice a tank as was existing in the same. Let, therefore, and after demolition, all steps be taken by the Collector, Mumbai Suburban District and the Municipal Officials to protect and safeguard this property. The nearest police station shall render requisite assistance to them. In addition, both the Government as also the Municipal Corporation can explore the possibility of

deploying the security guards to prevent encroachments on the land identified as a tank.

9. The writ petition is disposed of.

10. Needless to clarify that disposal of this petition will not preclude or prevent the petitioner from instituting such proceedings as the petitioner is advised in law.

(S. C. DHARMADHIKARI, J)

(G. S. PATEL, J)