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

WRIT PETITION NO.2705 OF 2013

Dr.Sunil V. Patil	...Petitioner
V/s.	
Municipal Corporation of Gr. Mumbai & Anr.	...Respondents

Mr.Nikhil Rajeshirke for the Petitioner.

Mr.R.Y. Sirsikar for the Respondent No.1.

Mr.Hemant Haryan, A.G.P. for the State – Respondent No.2.

Mr.R.M. Haridas with Mr.Manish D. Tiwari for the Respondent No.3.

CORAM : R.D. DHANUKA, J.

DATE : 21ST JUNE, 2019.

P.C. :-

1. Learned counsel appearing for the petitioner on instructions seeks liberty to withdraw this writ petition with liberty to file appropriate proceedings in view of the judgment of this Court delivered on 10th April, 2014 in Writ Petition No.2243 of 2013 filed by **Yogesh Megaji Gada .vs. The Municipal Corporation of Greater Mumbai & Anr.** along with connected matters holding that civil suit has to be filed impugning the notice issued under section 351 of the Mumbai Municipal Corporation Act.

2. Mr.Haridas, learned counsel appearing for the respondent

no.3 appears and states that against the ad-interim order passed by this Court, his client has filed a Special Leave Petition (Civil) No.5957 of 2015 which was converted into Civil Appeal No.(s) 5256 of 2015 before the Supreme Court. He strongly placed reliance on the order dated 10th July, 2015 passed by the Supreme Court in the said Civil Appeal allowing the said appeal and setting aside the *ad-interim* order passed by this court in favour of the petitioner. He submits that the Supreme Court having found that the petitioner failed to produce any document in respect of the legality of the structure in question, no purpose would be served by allowing the petition to file any other proceedings. Learned counsel appearing for the petitioner on instructions states that the structure which is the subject matter of the notice under section 351 of the MMC Act is already demolished in view of the order of the Supreme Court setting aside the order of granting ad-interim relief. The statement is accepted.

3. The petitioner is granted leave to withdraw this petition with liberty to file appropriate proceedings. Writ Petition is dismissed as withdrawn with liberty as prayed. It is made clear that this Court has not expressed any views on the merits of the matter. If any proceedings are filed, the same will be considered by appropriate Court on its own merit. All the respondents to this writ petition would be at liberty to raise all the issues, including the maintainability of

such proceedings in accordance with law. The respondent no.3 would be at liberty to point out the effect of the order dated 10th July, 2015 passed by the Supreme Court in Civil Appeal No.(s) 5256 of 2015 thereby setting aside the *ad-interim* order granted by this Court. There shall be no order as to costs.

(R.D. DHANUKA, J.)