

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

WRIT PETITION NO.2279 OF 2015

Onkar Industrial Premises Co-op.
Society Ltd.

.... Petitioner

Vs.

Municipal Corporation of Greater
Mumbai & Others

.... Respondents

Mr. Surel Shah with Mr. Vaibhav A. Singh for
the Petitioner.

Ms Vandana Mahadik for the Respondent-MCGM.

Mr. Devansh Bheda i/by Purnanand & Co. for
Respondent No.4.

CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ.

DATE : SEPTEMBER 03, 2019

P.C:

1. The petitioner has filed this writ petition under Article 226 of the Constitution of India presuming that the Municipal Corporation has, without adherence to the legal provisions, notified a private road as a public road by the impugned communication of 8-6-2012.

2. An affidavit in reply has been filed by the Municipal Corporation in which there is a categorical statement that the strip of road from Lal Bahadur Shastri Marg to a Central Railway Station, namely, Kanjurmarg Railway Station has been

declared as a public street in terms of Section 291(b) of the Mumbai Municipal Corporation Act, 1888 ("**MMC Act**"). The manner in which the Municipal Corporation has proceeded and in compliance with the law, is set out in details. The assertion is that, after following the due process of law a private road is declared as a public road and Section 291(b) of the MMC Act has been invoked in that regard. To our mind, once the Municipal Corporation has complied with the law and when there is nothing stated to the contrary, then the assertion of the petitioner that the subject road is a private road, cannot be accepted. In fact, on the strip of the road being handed over to the Municipal Corporation, certain benefits will be given to the owner of that portion of the land. If the petitioner is not the owner, then, the petitioner will have to demonstrate its interest in the property so as to claim compensation/enhanced compensation.

3. By keeping the issue insofar as compensation, its quantum and its apportionment open, this writ petition is disposed of.

(G.S. PATEL, J.)

(S.C. DHARMADHIKARI, J.)