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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

VASANT
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WRIT PETITION NO.10587 OF 2022

Sanjay A. Shukla

...Petitioner

V/s.

Kalyan Dombivali Municipal
Corporation & Ors.

...Respondents

Mr.D.S. Mhaispurkar for the Petitioner.

Mr.Sandeep Shinde for the Respondent Nos.1 and 2.

Mr.Ravindra R. Chile for the Respondent Nos.3 and 4.

CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.
DATE : 29TH SEPTEMBER, 2022.

P.C. :-

1. Learned counsel for the petitioner seeks liberty to delete the respondent nos.5, 6 and 7 from the cause title. Leave to amend is granted. The amendment shall be carried out forthwith. Reverification is dispensed with. The amendment shall be also carried out in the copies supplied to the respondents.

2. Rule. Learned counsel for the respondent nos.1 and 2 waives service. Learned counsel for the respondent nos.3 and 4 waives service. Rule is made returnable forthwith. The representation made by the petitioner is pending. Learned counsel for

the Municipal Corporation states that the petitioner can make a representation under section 258 of the Maharashtra Municipal Corporations Act, 1949 and if such representation is made, the same can be considered by the Municipal Commissioner or any officer, who could be deputed by the Municipal Commissioner. Statement is accepted.

2. Learned counsel for the petitioner states that his client would file a detailed representation and would annex the relevant documents in support of his representation to the Municipal Corporation or any officer, who could be deputed by the Municipal Commissioner within two weeks from today with a copy to be served upon the advocate for the respondent nos.3 and 4 simultaneously. Statement is accepted. The respondent nos.3 and 4 would be at liberty to file their say to the said representation within two weeks from the date of service of the copy of such representation with a copy of say to be served upon the petitioners' advocate simultaneously.

3. The Municipal Commissioner or any officer, who would be deputed by the Municipal Commissioner shall decide the said representation after hearing the petitioner as well as the respondent nos.3 and 4 and after considering the representation along with documents as well as the say of the respondent nos.3 and 4 and

shall pass an order within eight weeks from the date of granting personal hearing to both the parties.

4. The petitioner as well as the respondent nos.3 and 4 are directed to remain present before the Municipal Commissioner or any officer, who would be deputed by the Municipal Commissioner on 11th November, 2022 at 11:00 a.m. Learned counsel for the petitioner agrees to communicate this order to the Municipal Corporation for information and necessary action.

5. It is made clear that this Court has not expressed any view on the merit of the representation already made and proposed to be made by the petitioner. All the contentions of both the parties are kept open.

6. The order that would be passed by the Municipal Commissioner or any officer, who would be deputed by the Municipal Commissioner shall be communicated to the petitioner as well as the respondent nos.3 and 4 within one week from the date of passing such order. If any adverse order is passed against the respondent nos.3 and 4, no coercive steps shall be taken against the respondent nos.3 and 4 for a period of two weeks from the date of communication of such order. Writ petition is disposed off accordingly. Rule is made absolute accordingly. There shall be no order as to costs. Parties to act on the authenticated copy of this

order.

7. It is made clear that the construction which is being carried out by the respondent nos.3 and 4 shall be subject to the order that would be passed by this Court.

8. The Municipal Commissioner or any officer, who would be deputed by the Municipal Commissioner would be at liberty to visit the site after giving 48 hours notice to both the parties before passing any order on the representation made by the petitioner and to submit a report to the Municipal Commissioner with a copy to be served upon both the parties.

(KAMAL KHATA, J.)

(R.D. DHANUKA, J.)