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

WRIT PETITION NO. 1866 OF 2023

Ronnie Gabriel Menezes ...Petitioner
Versus
Municipal Corporation of Greater Mumbai & Ors ...Respondents

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Mr Ashish Kamath, Senior Advocate a/w Shivam J Singh & D. K. Shukla i/b D. D. Singh for Petitioner.
Mr Anoop Patil a/w Pushpa Yadav for Respondent - MCGM.
Mr Salvi (through V.C.), Assistant Commissioner, present.

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CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.

DATE: 13th OCTOBER 2026

P.C.

1. By this Writ Petition filed under Article 226 of the Constitution of India, the Petitioner is praying for the following reliefs: -

> "(a) that this Hon'ble Court be pleased to issue writ of certiorari, writ in the nature of certiorari or any other writ, order or direction in the nature thereof, quashing and setting aside the Impugned order dt. 10th March 2022 bearing no. AC/PN/1571 /SR/ AEM (W)/ DTD-10/03/2022, issued by Assistant Municipal Commissioner. P/North Ward, which is at Exhibit "DD" to the petition;
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> (b) that this Hon'ble Court be pleased to issue writ of certiorari, writ in the nature of certiorari or any other writ, order or direction in the nature thereof, quashing and setting aside 16 independent notices u/s 314 of MMC Act at Exhibit-"T" to "T-15" hereto, all dt.1st March 2013, leading to pass impugned order dt. 10th March 202 at Exhibit-"DD" hereto;
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> (c) That pending the hearing and final disposal of the present Writ Petition,

this Hon'ble Court be pleased to direct Respondents from executing, implementing and enforcing the impugned notices u/s 314 of MMC Act at Exhibit-"T" to "T-15" hereto, all dt.1st March 2013 and also from executing, implementing and enforcing the impugned notice/speaking order dt. 10th March 2022 at Exhibit-"DD" to the petition;

(d) ad-interim and interim reliefs in terms of prayer (C) be granted;

(e) cost of the Petition be provided for;

(f) such other and further reliefs as this Hon'ble Court may deem fit and proper, looking to the circumstances of the case."

2. By an ad-interim order dated 21st March 2022 passed on the present proceedings, a Co-ordinate Bench of this Court has restrained the Respondent No.1-Municipal Corporation of Greater Mumbai (for short the '**MCGM**') from taking any coercive action against the Petitioner in furtherance of the impugned order dated 10th March 2022.

3. Heard Mr Ashish Kamath, Senior Advocate for the Petitioner; Mr Anoop Patil, learned counsel for the MCGM and, with their assistance, perused the record as also the letter dated 10th March 2022 issued by the Respondent MCGM to the Petitioner. The letter contains a table setting out points for further clarification from the Petitioner regarding a discrepancy in the area in CTS No. 186A. The letter also states that there is a discrepancy in the City Survey Plan for the year 1947, attached along with the possession receipt, regarding the structure(s). According to the MCGM, the survey plan shows only a structure falling within the plot boundary of a pond, as highlighted in red, and there is no remark regarding any encroachment. Moreover, the compound wall also appears to be within the plot boundary of CTS No. 186A, but this is not shown in the survey. Thus, according

to the Respondent MCGM, it is difficult to ascertain the exact alignment of the present boundary wall with respect to the CTS boundary of the adjoining plot. The portion between the existing compound wall and the CTS plot boundary is required to be ascertained. In these circumstances, the Respondent MCGM, by its aforesaid letter, has instructed the Petitioner to submit relevant documents to ascertain the correct factual position.

4. Despite being uncertain about the factual position regarding the structures alleged to have been constructed by the Petitioner outside his own premises, the Respondent MCGM, by the said letter dated 10th March 2022, has held that the Petitioner's structures fall within the plot bearing CTS No.186A, reserved for a playground as per the D.P.C.R. 2034, and has directed him to remove the unauthorised structure within 14 days of receipt of the said letter, failing which the Petitioner is informed that the said structures will be demolished by the MCGM. The present Writ Petition challenges this notice/letter.

5. The notice is self-explanatory. A plain reading indicates that, it is necessary to ascertain the factual position in regard to the demarcation of the land in question so that the structures are constructed on MCGM's land or the Petitioner's land needs to clearly come on record so that further appropriate action as the law may contemplate can be taken by the MCGM depending on any such report, on demarcation which will be prepared. In these circumstances, we pass the following order: -

(i) The Notice dated 10th March 2022, at Exhibit 'DD' of the Writ Petition, is quashed and set aside; the Notices dated 1st March 2013, issued by the MCGM to the Petitioner under Section 314 of the Mumbai Municipal Corporation Act, 1888 (and annexed at Exhibits 'T' to 'T15' to the Petition, are also quashed and set aside.

(ii) The MCGM/City Survey Officer is permitted to carry out a survey and demarcation of plots bearing CTS Nos.186A, 186B, 181, 185 and 189 (189A, 189B, 189C and 189D), all situated in Revenue Village Valnai and to ascertain as to whether any of the Petitioner's structure/s is within the plot bearing CTS No.186A. A report of the survey carried out by it as above be prepared and a copy of the same be furnished to both the parties.

(iii) The MCGM shall issue a 14-days notice in advance to the Petitioner of the date on which the survey and demarcation in respect of the aforesaid plots are scheduled. The Petitioner shall also be permitted to remain present during the survey. It is, however, made clear that the Petitioner shall not obstruct the survey work being carried out and shall extend full cooperation to the concerned officials.

(iv) In the event, the findings rendered by the City Survey Office are against the Petitioner, the Respondent MCGM is at liberty to issue fresh notice/s to the Petitioner and the Petitioner is also at liberty to assail any such

notice/s issued to him by initiating appropriate proceedings as permissible in law.

(v) All contentions of the parties in that regard are expressly kept open.

(vi) Till such time that the survey is carried out and notice/s, if any, are issued by the MCGM/City Survey Officer to the Petitioner, the interim order dated 21st March 2022 passed by this Court shall remain in force.

6. The Writ Petition stands disposed of in the aforesaid terms. No costs.

(DR. NEELA GOKHALE, J.) **(G. S. KULKARNI, J.)**

SHAMBHAVI NILESH SHIVGAN

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Date: 2026.10.16 12:10:08 +0530