

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY*****CIVIL APPELLATE JURISDICTION*****APPEAL FROM ORDER (ST.) NO.14508 OF 2015****IN****NOTICE OF MOTION NO.301 OF 2014****IN****L.C.SUIT NO.2613 OF 2013****The New Aarti Co-operative Housing Society  
Limited****..... Appellants****VERSUS****Municipal Corporation of Greater Mumbai****..... Respondent**

Mr.P.K.Samdhani, Senior Advocate, i/b. Maniar Srivastav & Associates for the Appellants.

Mr.S.K.Sonawane for the Respondent/B.M.C.

Mr.Mayur Khandeparkar for the Intervener/Seth Developers.

**CORAM : R.D. DHANUKA, J.****DATED : 27<sup>th</sup> JULY, 2015****P.C.**

Mr.Khandeparkar, learned counsel appearing for M/s.Seth & Sonal Developers applies for intervention on behalf of his client in this matter. Mr.Samdhani, learned senior counsel appearing for the appellants have no objection if M/s.Seth & Sonal Developers are allowed to intervene in this matter. Statement is accepted. M/s.Seth and Sonal Developers are allowed to intervene in this matter who would be the new developers and have entered into a writing with the appellants for redevelopment of the property in question. Mr.Khandeparkar, learned counsel appearing for the intervener states that the intervener would comply with the terms and conditions of the development agreement entered into between the intervener and the appellants. Statement is accepted.

2. Mr.Samdhani, learned senior counsel appearing for the appellant states that in view of the appointment of the new developer, the members of the appellant society would vacate their respective flats within maximum period of three months from today to enable the Municipal Corporation to demolish the building and to implement the notices issued by the Municipal Corporation. He submits that the costs, expenses and charges for carrying out such demolition by the Municipal Corporation if any, would be borne by the appellants. Statement is accepted.

3. Mr.Samdhani, learned senior counsel appearing for the appellants further states that till the members of the appellants vacate their respective premises, they would to occupy the premises entirely at their risk, costs and consequences and the Municipal Corporation shall not be held responsible for any untoward incident. Statement is accepted. It is made clear that the members of the appellants society if continue to occupy the premises in their occupation, the same shall be entirely at their risk and cost. Municipal Corporation would not be responsible for the same. This indulgence is shown to the members of the appellants at their request and on their undertaking that they will not held Municipal Corporation liable for any untoward incident and in view of the fact that new developer has been appointed by the appellants society.

4. It is made clear that if the members of the appellants society do not vacate within three months from today their respective premises, the Municipal Corporation shall demolish the structures in question and implement the notices issued.

5. In the event of the new developers submitting any application for sanction of the development plan, the Municipal Corporation to consider the same

expeditiously on its own merits and in accordance with law.

6. Parties including the Municipal Corporation to act on the authenticated copy of this order. Appeal from Order is disposed of in the aforesaid terms. In view of the disposal of Appeal from Order, Civil Application (L) No.14509 of 2015 does not survive and is accordingly disposed of.

7. In view of the aforesaid order, the suit filed by the appellants before the Bombay City Civil Court also stands disposed off.

**[R.D. DHANUKA, J.]**