

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

**CONTEMPT PETITION NO. 24 OF 2015
IN
WRIT PETITION NO. 2241 OF 2013**

Mr. M. Farroque M. Yusuf	}	Petitioner
versus		
Mr. S. N. Bhagat,	}	
Executive Engineer, MHADA	}	Respondent

Mr. Sachin R. Gelye for the Petitioner.
Mr. Shankar P. Thorat for the Respondent.

**CORAM :- S. C. DHARMADHIKARI &
G. S. KULKARNI, JJ.**

DATED :- JUNE 25, 2015

P.C. :-

This is a Contempt Petition and the allegations are specific, namely, that on 16th July, 2014 in Writ Petition No. 2241 of 2013, this Court passed the following order:-

“1] Rule. Rule made returnable forthwith.

2] There is no reason for MHADA not to appoint a contractor for the purpose of reconstruction of building which has been demolished. The building was earlier declared unsafe. The landlord is even willing to pay for the construction in the first instance and without prejudice to his rights, if any.

3] In these circumstances the petition is made absolute in terms of prayer clause (a) which reads as under:-

(a) That this Hon'ble Court be pleased to issue writ of mandamus or a writ in the nature of Mandamus or any other appropriate writ order or direction under Article 226 of the Constitution of India,

directing the respondent to initiate action by issuing work order of repair and/or reconstruction of building No.2/4/6, Narayan Dhuru Street, Khatiya Mansion, B-1, Division Pyshonie, Mumbai 400 003 consisting of ground plus eight floor in accordance with the provisions of the MHADA Act.”

2) This Court was apprised of the situation at site. The plot has to be developed by construction of a building. The earlier building was demolished as it was declared completely unsafe. The owner/landlord was willing to pay for the construction and by reserving his rights. Despite such willingness and insistence, MHADA was not granting permission to go ahead with the reconstruction and the redevelopment work. The Writ Petitioner was therefore forced to move this Court and it then passed the order.

3) The complaint now was that this order has not been complied with though a year has lapsed from the date it being made. On the earlier occasion Mr. Thorat sought time to take instructions and state as to whether the necessary no-objection certificate has been issued or not. We adjourned the matter till today to enable Mr. Thorat to take instructions. Today, Mr. Thorat has produced before us a copy of the no-objection certificate dated 24th June, 2015. We take this document on file and mark it as 'X' for identification. A copy thereof has been supplied to Mr. Jain in Court.

4) We are of the view that in all such matters the authority must demonstrate a sense of urgency and expediency. It must remember that these are delicate and sensitive issues involving the fate of residents residing in old and dilapidated structures, in relation to which, authorities like MHADA levy cess and collect it. Thereupon, the statutory duty has to be performed and enabling rehousing of the occupants of such buildings in the event they are rendered unsafe for the public. If structural repairs have to be carried out, there is a specific provision in that regard. If a building has to be demolished and reconstruction to be permitted either by the statutory authority or by the owner itself, then also there are specific provisions. When owners and occupants come forward, then, only the authority has to issue no-objection certificate, based on which the owners would approach the other competent authorities and commence reconstruction.

5) If such a small step and in the present case was required to be taken, then, we fail to understand as to why it took nearly 11 months and more for the authority as it did presently. There is no explanation in detail nor has nobody come forward to take responsibility. Ordinarily, we could have pursued the Contempt Petition and taken action in accordance with law.

6) However, on Mr. Thorat's persuasion and he having apologized for the delay on behalf of the authority, we drop the proceedings. We accept oral explanation of Mr. Thorat and on instructions he states further that the authority will ensure that the pending cases would be dealt with expeditiously so as to avoid inconvenience and hardship to the general public.

7) With the aforesaid observations, the Contempt Petition is disposed of.

(G.S.KULKARNI, J.)

(S.C.DHARMADHIKARI, J.)