

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.840 OF 2013

Shama Welfare Society

... Petitioner

Vs.

Municipal Corporation of Greater Mumbai & Ors. ... Respondents

Mr.M.A. Khan for the Petitioner

Ms.Shobha Ajitkumar for Respondent Nos.1, 2 & 3 – Corporation

Mr.Raj Khude for Resp. Nos.4 to 8

**CORAM: SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG, JJ.**

DATE: 12th JANUARY, 2015

P.C.:

By this petition, the petitioner seeks a direction to the respondent Nos.2 and 3 to initiate action against the respondent Nos.4 to 8, thereby restraining them from carrying on construction activity of whatever nature on the property in question.

The petitioner society claims to have been doing social work in the area of Bandra and further claims that it was approached by the aggrieved persons, who claimed to be the tenants of the respondent Nos.4 to 8 seeking help. It is stated that the respondent Nos.2 and 3 failed to

initiate action against the Respondent Nos.4 to 8, who have made illegal construction of a building which was demolished and permitted to be reconstructed. According to the petitioners, the construction activity was not carried on by Respondent Nos.4 to 8 in accordance with the approved plans and as per the Development Control Rules.

A preliminary objection is raised by the Respondents to the *locus standi* of the petitioners to institute the Writ Petition. It is stated that the petition has been filed by the petitioner society with some oblique motive.

We find, on a reading of the Writ Petition and the issue involved therein, that the petitioner – society would have no *locus standi* to file the instant petition. The petitioner – society claims to have been doing some social work in the area of Bandra. It is averred in the petition that the petitioner – society was approached by persons who claim to be the tenants of the respondent Nos.4 to 8. None of the tenants of the building have approached this Court. So also, no other interested person has approached this Court seeking action against the alleged illegal construction by respondent Nos.4 to 8. We find much force in the preliminary objection raised on behalf of the respondents that the petition has been filed by the society with some oblique motive. We are not inclined to entertain this

Writ Petition in exercise of the discretionary jurisdiction under Article 226 of the Constitution of India. The judgments reported in **1966 2 SCR 172** (*Godde Venkateswara Rao vs. Government of Andhra Pradesh & Ors.*, **AIR 1991 SC 1902** (*Bangalore Medical Trust vs. B.S. Muddappa & Ors.*), **AIR 2000 SC 988** (*Chairman, Railway Board and others vs. Mrs.Chandrima Das & Ors.*) and the unreported judgment of the Hon'ble Supreme Court dated **19.9.2014** in **civil Appeal No.2143 of 2007** (*Institute of Law & Ors. vs. Neeraj Sharma & Ors.*), **and** relied on by the learned Counsel for the petitioner, cannot help the petitioners in pointing out that the petitioners would have *locus standi* to file the petition. In the judgment reported in **1966 2 SCR 172**, the Hon'ble Supreme Court was considering the petition filed by the President of Panchayat Samiti seeking the setting up of primary health centre. So also, in the judgment reported in **AIR 1991 SC 1902**, the Court was considering the question of *locus standi* of a resident of the concerned locality challenging the conversion of the public park into a private nursing home. Also in the judgment reported in **AIR 2000 SC 988**, the Hon'ble Supreme Court had considered whether the rape victim could file a petition for compensation against the government. Lastly, in the unreported judgment, the Hon'ble Supreme Court was considering the illegal allotment of huge tract of land belonging to the Union Territory of Chandigarh to a private party. The judgments referred to hereinabove

cannot help the petitioner in seeking entertainment of the Writ Petition at its behest.

In the result, we dismiss the Writ Petition with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)