

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.2631 OF 2015
with
WRIT PETITION NO.2019 OF 2015

WP (L) NO.2631 OF 2015

Joginder Singh Mokha. .. Petitioner

Vs

The Municipal Corporation of Greater Mumbai
and Others. .. Respondents

—

Shri J. Reis, Senior Counsel i/b Shri Akshay G. Patkar for the Petitioner
Shri Vinod Mahadik for the Respondent Nos.1 and 2.
Shri Bipin J. Joshi for the Respondent No.3.

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WP NO.2019 OF 2015

Andheri Vile Parle Punjabi Co-op Hsg. Ltd. .. Petitioner

Vs

Municipal Corporation of Greater Mumbai
and Others. .. Respondents

—

Shri Dipesh Siroya for the Petitioners.
Shri J. Reis, Senior Counsel i/b Shri Akshay G. Patkar for the
Respondent No.4.
Shri Bipin J. Joshi for the Respondent No.3.
Shri Vinod Mahadik for the Respondent Nos.2, 5, 6 and 7.

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CORAM : A.S. OKA &
VLACHLIYA, JJ
DATED : 17TH OCTOBER 2015

P.C.

. The challenge in both Petitions is to the notices issued
under Section 354 of the Mumbai Municipal Corporation Act, 1888 (for

short “the said Act of 1888”). The contention of the Municipal Corporation is that the building in question is categorized in C-1 category. Though there are conflicting opinions of experts about the structural status of the building, the Municipal Corporation has not referred the matter to the Technical Advisory Committee.

2. The issue which arises in both these Petitions is whether the condition of the building in question is so bad that it cannot be repaired and is required to be pulled down. For deciding the issue involving disputed questions of facts, recording of evidence will be necessary. Therefore, it will be appropriate if the parties are relegated to the remedy of a suit. For challenging the notices issued under Section 354 of the said Act of 1888, the bar under Section 515A thereof will not be attracted.

3. Hence, we dispose of both the Petitions by passing the following order:

ORDER :

- (a) We permit the Petitioners to adopt a remedy of filing Civil Suits. The ad-interim relief which is operative till today shall continue to operate for a period of

six weeks from today to enable the Petitioners to file suits and to move the Civil Court for appropriate interim relief;

- (b) We make it clear that all the contentions on merits of the suits which may be filed by the Petitioners are expressly kept open;
- (c) It is obvious that the Civil Court will decide the suits and the interim relief applications made therein on its own merits and without being influenced by the ad-interim relief granted by this Court.
- (d) The Petitions are disposed of on above terms.

(V.L. ACHLIYA, J)

(A.S. OKA, J)