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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3186 OF 2015

Girish Manohar Mokashi ... Petitioner

Versus

Kalyan Dombivali Municipal Corpn and Ors. .. Respondents

Ms. Smita Mane for the petitioner.

Mr. A.A. Garge for respondent no. 5.

Mr. Prashant Kamble i/by Mr. A.S. Rao for respondent nos. 1 and 2.

Mrs. M.P. Thakur, AGP for respondent nos. 3 and 4 State.

**CORAM : SHANTANU KEMKAR &
MAKARAND KARNIK, JJ.
DATED : JULY 19, 2016.**

P.C.

Parties through their counsel.

2. Petitioner claims to be the owner of the building known as "Gharkul" situated at Sr. No.49, Plot No. 4, Gajbanndhan, Patharli, Gopal Nagar Road No. 2, Dombivali East, District Thane. His grievance is that although the respondent Corporation had issued notice on 15th July, 2013 and thereafter on 6th June, 2016 stating therein that the said building is in dilapidated condition and will be pulled down by the Corporation but the said notices have not been implemented. Petitioner has placed reliance on two structural

reports dated 26th June, 2012 (Exhibit "A") and 11th June, 2014 (Exhibit "O"). According to the petitioner as per the said reports, the entire structure has not been recommended for human habitation and it is not feasible to repair the same as almost the entire structure is in highly dilapidated condition and natural collapse has also been started. It is the recommendation of the structural engineers that the building has to be pulled down to avoid any mishap in future.

3. On the other hand, learned counsel appearing for all the private respondents have stated that the reports are submitted by the private structural engineers. Learned counsel for the Municipal Corporation has supported the stand taken by the petitioner.

4. Having considered the submissions made by the learned counsel for the parties and having gone through two structural reports, we find that there is clear finding of the structural engineers that the building requires to be pulled down immediately. There is no other contrary report on record submitted by the respondent tenants to challenge the said report. In the circumstances agreeing with the reports submitted by the petitioner and the stand taken by the Corporation that the building

requires demolition, we hereby direct the Corporation to act upon the notices dated 15th July, 2013 and 6th June, 2016 immediately. However, as regards the interest of the occupiers of the building, we find that the Corporation in its notices has already bound the petitioner to provide alternate accommodation to the occupants. In the circumstances, with a liberty to the respondent occupants to claim alternate accommodation and with a liberty to seek appropriate remedy for their rehabilitation, we dispose of this petition by directing the Corporation to act upon their notices for demolition of the structure in question immediately. Writ petition stands disposed of accordingly.

(MAKARAND KARNIK, J.) (SHANTANU KEMKAR, J.)