

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 7568 OF 2016

Dinesh Nandlal Raghani ... Petitioner

V/s.

Kalyan Dombivali Municipal Corporation
& others ... Respondents

Mr. N.R. Bubna for the petitioner.

Mr. A.S. Rao for respondents 1 and 2.

Mr. Unmesh A. Breed for respondent no.3.

**CORAM : NARESH H. PATIL AND
M.S. KARNIK, JJ.**

22nd November, 2016.

P.C.

The petitioner challenges the notice issued by the Corporation under Section 268 of the Maharashtra Municipal Corporation Act. The petitioner questions the stand of the Corporation that the subject building is a dilapidated building. According to learned Counsel the petitioner is the only tenant who is occupying the subject premises in the building. The other tenants have vacated the premises. The petitioner alleges that

at the behest of the landlord who wants to develop the building, the Corporation must have issued such notice.

2. All these allegations are refuted by the Counsel appearing for landlord.

3. The Counsel appearing for Corporation submits that in case the Court allows the Corporation to proceed with the subject notice issued by the Corporation then necessary steps would be taken. Learned Counsel further submits that after the subject building is demolished, the Corporation shall not grant sanction to any plan submitted by the owner or any other person on behalf of the owner seeking development of the said property unless such a developer submits an agreement entered between the landlord/developer and petitioner-tenant.

4. The Counsel appearing for petitioner submits that according to the State's policy before the tenant vacates the subject premises, the same will be measured by the Surveyor and certificate of measurement shall be issued in favour of the petitioner.

5. The Counsel appearing for respondent no.3-landlord submits that a

Suit has been filed against the tenant in which contentions were raised that the tenant had illegally encroached upon 251 sq. feet area. We do not express any opinion on the same as the issue is *subjudice* before the Civil Court.

6. We direct the Corporation to act in accordance with the statement made by the Counsel appearing for the Corporation.

7. In view of the statement on behalf of the Corporation and keeping all issues on merits open, the petition stands disposed of.

(M.S. KARNIK, J.)

(NARESH H. PATIL, J.)

L.S. Panjwani, P.S.