

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2689 OF 2014

Joyce Rath Nath And Anr ...Petitioner(s)

Versus

Mr. Ravi Sawant And Ors ...Respondent(s)

WITH

WRIT PETITION NO. 1593 OF 2015

Joyce Rath Nath And Anr ...Petitioner(s)

Versus

Ravi Sawant And 9 Ors ...Respondent(s)

Mr. Yogesh Yagnik i/by Mrs. Joyce Rath Nath for the petitioners in both the petitions.

Ms. Shobha Ajitkumar for respondent Nos. 1 to 3 and 8 in WP No. 2689 of 2014 and for respondent nos. 1 to 4 and 8 in WP No. 1593 of 2015.

Mr. Prashant Kulkarni for respondent Nos. 5 to 7.

Adv. Sheetal Thakur i/by Adv. Vikram Chavan for respondent no. 4 in WP No. 2689 of 2014.

Mr. M.P. Jadhav, AGP for the State of Maharashtra respondent nos. 9 and 10 in WP No. 1593 of 2015 and for respondent no. 9 in WP No. 2689 of 2014.

**CORAM: SHANTANU S. KEMKAR &
MAKARAND KARNIK, JJ**

DATED: 20th JULY, 2016

PC:-

Parties through their counsel.

2. By this petition, the petitioner who are residents of Rath Mansion Co-op Hsg. Society Limited are seeking direction to the respondent Corporation to act upon the notice dated 28th January, 2014 asking the society of the said building to repair the building as the same is in dilapidated condition. During the pendency of this petition, this Court had directed appointment of the structural engineer to submit structural audit report. In pursuance to the said order, M/s. Patwardhan & Associates submitted their structural audit report dated 21.4.2016. As per the conclusion drawn by the said structural engineer, building requires structural repairs as early as possible to avoid any further deterioration.

3. Learned Counsel for the earlier Board of Administrators who was appointed to administer the society has not disputed the position that the building requires immediate repairs. We find that the parties are ad idem on the point that the structural report submitted by M/s. Patwardhan & Associates has to be taken to its logical end. We also find that the Corporation has also issued

notice and thereafter accepted the report submitted by the said structural engineer. In the circumstances, we dispose of these petitions by directing the present Administrator of the society in question to act and to the Corporation to act upon the notice which has been issued by the Corporation as expeditiously as possible. As regards the expenditure part for the repairs, the Administrator is free to recover the dues from the members of the society and the flat owners/occupants in accordance with the bylaws of the society by taking appropriate steps. Let the Administrator start acting upon this order immediately. The petitioners are directed to bring this order to the notice of the present Administrator. Both the Writ Petitions stand disposed of accordingly.

(MAKARAND KARNIK,J.)

(SHANTANU S. KEMKAR,J.)