

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION {L} NO.1620 OF 2016

Raghuleela Mega Mall Kandivali (West)
Premises Co-operative Society Ltd. Petitioners
Vs.
Municipal Commissioner & Others Respondents

Mr. Ashish Mehta with Ms Avani Rathod, Mr. Amit
Ghurge, Ms Shivani Deshmukh, Ms Shivani Jadeja
& Ms Sharbari Chatterjee for the Petitioners.
Mr. H.C. Pimple for the Respondent Nos.1 to 4 & 6.
Mr. Satish Kamat for the Respondent No.5.

CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.

DATE : JUNE 24, 2016

P.C:

1. Mr. Pimple, appearing on behalf of the Municipal Corporation, has tendered an affidavit of the Deputy Chief Fire Officer.

2. After perusing this affidavit together with the annexures thereto, we are of the opinion that this Court should

not interfere in its writ jurisdiction, especially when the authorities are insisting that the petitioners must take effective measures for prevention of fire and put in place all life safety measures so that the Maharashtra Fire Prevention and Life Safety Measures Act, 2006, which is now in place for last ten years or so, is complied with.

3. The Act empowers the Municipal Corporation and the Chief Fire Officer, so also those to whom the powers of such officers are delegated, to take all steps, including to seal the premises. It is within their powers to direct disconnection of electricity supply if the acts and measures contemplated thereby are not put in place.

4. The affidavit indicates as to how there are discrepancies and deficiencies in compliance with the Act. The equipment on most occasions was found to be not working to the satisfaction of the authorities. In a three-hour long inspection the defects were noted and duly intimated to the petitioners.

5. Once it is for the petitioners to comply with the Act now, then they cannot question any measures, particularly of the nature which are initiated against them. When we expressed disinclination to interfere in writ jurisdiction, Mr. Mehta, on taking instructions from the petitioners' representatives present in Court, makes a statement that the petitioners will make application to the Competent Authorities under the Act of 2006 and request for indulgence so as to enable the petitioners to comply with the said enactment. We leave it entirely to the authorities to take such action, as is impugned in the writ petition. If the law enables taking of preventive measures and even coercive action and if such preventive measures are not in place, then this Court should not, in its writ jurisdiction, interfere with the opinion of experts. There cannot be any compromise when it comes to safety and security, much less fire safety measures. The writ petition is, therefore, dismissed. The ad-interim order is continued till 28-6-2016. It would continue till that time and it is thereafter entirely for the petitioners to approach such authorities as are empowered to exercise the

powers under the Act of 2006, and we leave it to such authorities to take such action, as is permissible therein. We do not mandate continuance of any liberty or permission to the Mall and allow the establishments and shops therein to function and run without complying with the Act.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)