

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION LODGING NO. 2066 OF 2016**

Vignahartha Co-operative Housing Society LimitedPetitioner
versus
Municipal Corporation of Greater Mumbai and ors. ...Respondents

Mr. P. K. Dhakephalkar, senior counsel along with Mr. Omkar M. Kulkarni, advocate for the petitioner.
Mr. S. U. Kamdar, senior counsel along with Mrs. Shobha Ajitkumar, advocate for the Corporation.
Mr. Ashish Kamat i/b. Mr. C. N. Gole, advocate for respondent No.5.
Mr. S. G. Surana, advocate for respondent No.6.
Mr. Janhvi Rane, advocate for respondent No.7.

**CORAM : RANJIT MORE &
ANUJA PRABHUDESSAI, JJ.**

DATE : 6th OCTOBER, 2016.

P. C. :

Heard learned senior counsel and learned counsel appearing
for the respective parties.

2. The petition is filed for seeking the following relief:

“a. this Hon'ble Court be pleased to issue writ of mandamus or any other writ, direction or order in the nature of mandamus, directing Respondent No.2 and Respondent No.3 to pass order on the Appeal dated 04/12/2015 being Exhibit 'H' filed by Respondent No.6 and hearing concluded on 29th January 2016 as expeditiously as possible;”

3. Mr. Kamdar, learned senior counsel on behalf of the Corporation stated that the Municipal Corporation has not taken any decision pertaining to redevelopment of the subject property which is owned by the Corporation. He further stated that respondent No.6 was heard on 15th January, 2016 and 29th January, 2016 by the then D.M.C. (Improvement), however, he was transferred and new D.M.C. (Improvement) took charge on 1st February, 2016, and hence, the order could not be passed. He stated that fresh hearing is required to be given to the parties and, thereafter, orders would be passed within a period of two months from the date of fresh hearing in terms of appeal dated 4th February, 2015. Similar averments are made in paragraph Nos.5 and 6 of the affidavit dated 3rd September, 2016 of Shri V.V.Shankarwar, Assistant Commissioner (Estates) which reads as follows:

“5. I say that a hearing was given to M/s.Bhavani Construction Pvt. Ltd. on 15.01.2016 & 29.01.2016 by then D.M.C.(Improvement) and as he is transferred and new DMC(Imp.) took charge as 01/02/2016 the order could't be passed hence fresh hearing needs to be given and accordingly order will be passed within 2 months from date of fresh hearing in terms of appeal dt.04.12.2015 being Exhibits-H(relevant page nos.113 to 123 filed by the Respondent No.6 herein i.e. Shree Bhavani Construction Private Limited) by following due process of law.

6. I say that at present, Municipal Corporation has taken no decision pertaining to redevelopment of said property which is owned by Corporation. I say that it is also not yet decided that if redevelopment has to be undertaken then same will be done under which scheme of DC Regulation. I say that it is settled law that Corporation is sole authority to decide about redevelopment of its property and no Co-operative Housing Society of the occupier have any vested right to demand that the said property be developed merely because they have approached to Corporation with such proposal."

4. In the light of the above, we dispose of this petition in the following terms:

(a) The Deputy Municipal Commissioner (Improvement) is directed to dispose of respondent No.6's appeal dated 4th December, 2015 as expeditiously as possible and preferably within a period of three months from the date of receipt of this order.

(b) The parties are directed to appear before Deputy Municipal Commissioner (Improvement) on 17th October, 2016, in order to enable him to fix a schedule of hearing.

(c) Needless to mention that this Court has not gone into the merits of the matter and the Deputy

Municipal Commissioner (Improvement) shall take decision independently on its own merits and in accordance with law.

(d) All rights and contentions of the respective parties are kept open.

The petition stands disposed of.

(ANUJA PRABHUDESSAI, J.)

[RANJIT MORE, J.]