

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO.2172 OF 2016

M/s. India Engineering Co. & Ors. ...Petitioners

Versus

The Municipal Corporation of
Greater Bombay & Ors. ...Respondents

...

WITH

NOTICE OF MOTION (L) NO.570 OF 2016

IN

WRIT PETITION NO.224 OF 2016

M/s. India Engineering Co. & Ors.
In the matter between ...Applicants

Mansur Ahmed Nizamuddin
Shaikh ...Petitioner

Versus

The Municipal Corporation of
Greater Bombay & Ors. ...Respondents

...

Mr. K.S. Patil with Mr. R.H. Hardas i/b. V.K. Lex & Associates for the
Petitioner and Applicant in NM(L)/570/2016.

Mr. Vinod Mahadik for BMC.

Mr. Sharan Jagtiani with Ms Lara Jeswani i/b. M/s. M. Mulla Associates
for Respondent No.5.

Mr. M.A. Khan for Respondent No.6 in WP/2172/2016 and for
Petitioner in WP/224/2016.

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

DATED : 19th AUGUST, 2016.

P. C. :

By consent of the parties being the Petitioners, the Respondent No.6 and the Respondent No.5, the above writ petition and the above Notice of Motion filed by the Petitioners, are disposed of in terms of the following order:

2. The Petitioners and the Respondent No.6 in the above Writ Petition shall forthwith (and by not later than 12 noon on 22nd August 2016) hand over quiet, vacant and peaceful possession of the shop premises no.5 admeasuring 62.34 sq.mts. carpet area i.e. 31.75 sq.mts. carpet area on the ground floor and 31.75 sq.mts. on the mezzanine floor of the dilapidated building known as “Jhaveri House” situated at 110, Nagindas Master Road, Fort, Mumbai-400 023, to the owner being Respondent No.5, as per the Consent Terms dated 29th July, 2016 filed in Writ Petition No.224 of 2016.

3. The Respondent No.5 shall give possession of a new premises admeasuring 36 sq.mts. to the Respondent No.6 on the ground floor and a new premises admeasuring 36 sq.mts. to the Petitioners on the first floor of the proposed building to be reconstructed as per the Consent Terms dated 29th July 2016 filed in Writ Petition No.224 of 2016, without prejudice to the Respondent No.5's contention that the Petitioners are not tenants in respect of shop

premises no.5 and were never in occupation of the shop premises no.5.

4. The rights of the Petitioners qua the new premises on the first floor of the proposed building, shall be subject to the outcome of civil proceedings between the Petitioners/Applicants and the Respondent No.6 in respect of the same. In the event the Petitioners/Applicants are already put in possession of the new premises on the first floor during pendency of the said civil proceedings in terms hereof, the Petitioners undertake to forthwith vacate and hand over possession of the new premises on the first floor of the proposed building to the Respondent No.6, if they fail in the said civil proceedings.

5. Save and except for the aforesaid arrangement, the Consent Terms dated 29th July, 2016 filed in Writ Petition No.224 of 2016 and accepted by this Hon'ble Court vide order dated 29th July, 2016, stand confirmed by the parties.

6. The above matters are disposed of accordingly.

7. Liberty to apply.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)