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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1374 OF 2015

Shri Arvind Attarde & Ors.

...Petitioners

Vs.

Municipal Corporation of G. Mumbai & Ors.

...Respondents

Mr. Jagdish Jayale, Advocatae for the Petitioners

Ms. Geeta Joglekar, Advocaate for BMC Respondent

Ms. G.R. Shastri, Addl. Govt. Pleader for Respondent No.1

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

DATED : 30TH JUNE, 2016

P.C. :

Parties through their Counsel. Heard with Consent of the parties.

2. By filing this Petition the Petitioners have challenged the notices dated 4th May, 2009 **Exhibit-L** and 13th May, 2014 **Exhibit-N** whereby the Municipal Corporation has directed the Petitioners / tenants to evacuate the structure in question on the ground that the building requires to be demolished as it is in a dilapidated condition.

3. Learned Counsel for the Petitioners submit that the Municipal Corporation has not considered the report submitted by the M/s.

Creative Consultants in November, 2014 stating that the building in question is repairable. It is also the case of the Petitioners that the Corporation is relying merely on the report submitted by the Landlord and has not obtained any report from its structural engineers.

4. Learned Counsel for the Corporation on the other hand submits that the Petitioners were issued notices repeatedly as the building is in highly dilapidated condition. It is further argued that after the submission of the report the Municipal Corporation had written several letters to the Petitioners to submit further fresh reports, if any, but the Petitioners have failed to do so.

5. Having considered the submissions made by the learned Counsel for the parties we find that the Corporation has not obtained any independent structural report from its structural engineers and had merely acted on the basis of the report submitted by the landlord. The Corporation has also not taken into account the report submitted by the Petitioners. Thus in view of the fact that there are two conflicting reports we are inclined to dispose of this Petition in terms of the order passed by the Division Bench of this Court in Writ Petition (L) NO.

1135 of 2014 decided on 23rd June, 2014. The Corporation to comply with the directions / guidelines contained in paragraph 9 of the said order dated 23rd June, 2014 passed in Writ Petition (L) No. 1135 of 2014.

6. The entire exercise as aforesaid to be completed by the Corporation as expeditiously as possible. The Petition is disposed of. The interim orders passed earlier and the undertaking given by the Petitioners will remain operative till fresh decision as observed above is taken by the Technical Advisory Committee (TAC) / Corporation.

7. The Petitioners are directed to take necessary safety measures as expeditiously as possible in regard to the building in question in presence of the Engineers of the Corporation under their supervision.

(M.S. KARNIK, J.)

(SHANTANU S. KEMKAR, J.)