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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2877 OF 2015**

Bhagyan Co-operative Housing Society Limited ... Petitioner

Versus

The Mumbai Municipal Corporation and Anr. ... Respondents

Mr. Bipin J. Joshi for the Petitioner.

Mrs. Geeta Joglekar for the Respondent Nos.1 and 2 - BMC.

**CORAM : A.S. OKA &
C.V. BHADANG, JJ.**

DATE : 16th FEBRUARY, 2016

PC.

1. Perused the order dated 11th August, 2015. The statement made by the learned counsel appearing for the Petitioner on instructions was recorded in the said order that the building in respect of which the impugned notice under Section 354 of the Mumbai Municipal Corporation Act, 1888 has been issued will be demolished. There is an undertaking dated 28th August, 2015 filed by 5 members of the Petitioner Society who are Secretary, Treasurer, Chairman and Committee Members. The undertaking records that the building will be demolished within a period of six months from 11th August, 2015. Each individual member of the Petitioner has also given separate

undertakings to that effect. Only in view of the undertakings, protection was granted to the Petitioner.

2 The learned counsel appearing for the Mumbai Municipal Corporation has tendered across the bar a list of 9 occupants who have not vacated their respective flats/ premises in the building in terms of the undertaking. The said list is taken on record and marked 'A' for identification.

3 As the Petitioner has committed breach of the undertaking and assurance given to the Court that the building will be demolished within a period of six months from 11th August, 2015, this Petition cannot be entertained. In view of the breach of the undertaking, notice of contempt will have to be issued to those who have not complied with the undertakings.

4 Hence, we pass the following order:-

ORDER

- (i) Writ Petition is rejected on account of non-compliance of the undertakings. Needless to state that the ad-interim relief granted on 11th August, 2015 stands vacated;
- (ii) As the following persons have made willful/deliberate

breach of the undertaking, notice be issued to them under Rule 9(1) of the Contempt of Court (Bombay High Court) Rules, 1994 returnable on 6th April, 2016 :-

Shri. N.N. Deshpande A/03, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.	Shri. S.M. Waghmare A/04, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.
Shri. R.A. Pagare A/05, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.	Shri. B.D. Patel A/06, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.
Shri. R.K. More A/07, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.	Shri D.R. Jawale A/08, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.
Shri. H.R. Khadtale A/09, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.	Shri V.N. Jadhav A/13, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.
Shri. M.T. Pawar B/14, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.	Shri B.L. Thaguna B/15, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.

Shri. N.R. Nikale B/16, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.	Secretary, Shri. Sanjay Nivruti Nikale B/17, 2 nd floor, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.
Chairman Shri. Chandu Mahadeo Mane B/18, 2 nd floor, Bhagyawan CHS Ltd., Vaishali Plot No.36, Br. Nath Pai Nagar, Tilak end road, Ghatkopar (E), Mumbai – 400 077.	

(iii) Contemnors shall personally remain present in the
Court on that date.

(C.V. BHADANG, J)

(A.S. OKA, J)