

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

WRIT PETITION NO. 2407 OF 2010

1. Adarsh Co-op. Housing Society Ltd.
A Society registered under Maharashtra
Co-operative Societies Act, 1960,
Having its address at : CTS No.652,
Block VI, Colaba Division,
Captain Prakash Pethe Marg,
Adjacent to Backbay Bus Depot,
Colaba, Mumbai - 400 005.
2. Brig. (Retd) M.M.Wanchu,
Aged 75 yrs.,
President of Adarsh CHS Ltd Petitioners.

Vs

1. State of Maharashtra
through the Principal Secretary,
Department of Urban Development;
Mantralaya, Mumbai-400032.
2. The Municipal Corporation of
Greater Mumbai, Mahapalika
Bhavan, Mahapalika Marg,
Mumbai-400001.
3. Municipal Commissioner,
The Municipal Corporation of
Greater Mumbai.
4. Chief Engineer,
(Development Plan) Brihan Mumbai
Municipal Corporation,
Fort, Mumbai.
5. The Mumbai Metropolitan Regional
Development Authority, through
its Metropolitan Commissioner,
6. The Brihanmumbai Electrical
Supply and Transport Undertaking,
BEST Bhawan, Best Marg, Mumbai.
7. Union of India,

(Through Ministry of Environment and Forests), Paryavaran Bhavan,
CGO Complex, Lori Road,
New Delhi - 110 003.

8. Ministry of Defence,
through its Secretary
101, New South Block, Delhi.

9. Maharashtra Coastal Zone Management
Authority, through Member Secretary,
(MCZMA), New Administrative Building,
15th Floor, Environment Department,
Mantralaya, Mumbai - 400 032.

10. Collector,
Mumbai District Mumbai,
Old Custom
House, Mumbai.

Respondents.

Mr. Navroz H. Seervai, Senior Advocate a/w. Mr. Manish Desai, Mr. Saket Mone, Mr. Vishesh Kalra, Mr. Subit Chakraborti i/b. Vidhi Partners for Petitioners.

Mr. Shailesh Shah, Senior Advocate a/w. Mr. B. H. Mehta, A.G.P for Respondents No.1-State.

None for Respondents no. 2 to 4.

Ms. Kiran Bagalia, Advocate for Respondent no.5 -MMRDA.

Mr. H. Toor, a/w Ms. Prachi Sawant, i/b M.V.Kini & Co, Advocates for Respondent No.6-BEST.

Mr. D. J. Khambata, Senior Advocate, a/w Mr. M.I.Sethna, Senior Advocate, Rui Rodrigues, A.M.Sethna, Dhiran Shah, Aniket U. Nikam, Parag Vyas i/b Dhiren Shah, Advocates for Respondents no. 7 and 8.

Mr. D. J. Khambata, Senior Advocate a/w. Ms. S. U. Deshmukh for Respondent No.9.

CORAM : **RANJIT MORE & R.G.KETKAR,JJ.**
Reserved on : **02/12/2015**
Pronounced on : **29/04/2016.**

PC : (PER R.G.KETKAR,J.)

1. By an Administrative Order dated 25.8.2015 passed by the Honourable Chief Justice, this Special Bench was reconstituted for hearing of the above petition and other connected matters from the Division Benches available at Original/Appellate Side of this Court. In pursuance thereof, we have heard Mr. Navroz H. Seervai, learned senior counsel for the petitioners, Mr. Shailesh Shah, learned senior counsel for respondent no.1, Ms. Kiran Bagalia, learned counsel for respondent no.5, Mr. H. Toor, learned counsel for respondent no.6, Mr. D. J. Khambata, learned senior counsel for respondents no. 7, 8 and 9 at length. Rule. Learned counsel for the respective respondents waive service. At the request and by consent of the parties, Rule is made returnable forthwith and the petition is taken up for final hearing.

2. This Petition under Article 226 of the Constitution of India, is instituted by Adarsh Co-operative Housing Society Ltd (for short, 'Adarsh Society') against respondent no.1-State of Maharashtra, respondent no.2-The Municipal Corporation of Greater Mumbai (for short, 'Corporation'), respondent no.3-Municipal Commissioner of the Corporation, respondent no.4-Chief Engineer (Development Plan) of Corporation respectively, respondent no.5-Mumbai Metropolitan Regional Development Authority (for short, 'MMRDA'), respondent no.6- Brihan Mumbai Electrical Supply and Transport Undertaking (for short, 'BEST'),

respondent no.7- Union of India through Ministry of Environment and Forests (MOEF), respondent no.8-Ministry of Defence, respondent no.9-Maharashtra Coastal Zone Management Authority (for short, 'MCZMA') and respondent no.10- Collector, Mumbai District, Mumbai.

3. By this petition, the petitioners have challenged letter dated 30.10.2010 issued by MMRDA revoking Occupation Certificate issued on 16.9.2010 and letter/notice dated 31.10.2010 issued by the BEST and letter dated 2.11.2010 issued by Assistant Engineer, Water Works, 'A' Ward, Mumbai of Corporation. By the impugned action/order, the MMRDA has revoked the Occupation Certificate. Respondent no.2 Corporation has disconnected water Supply and respondent no.6-BEST has disconnected electricity supply to the building of Adarsh Society. The petitioners have challenged the actions of the respondents on the ground that without observing principles of natural justice, the Occupation Certificate is revoked, water connection is disconnected and electricity supply is disconnected. These authorities have no power and/or authority to revoke the Occupation Certificate as also disconnect water supply and electricity.

4. Writ Petition No.369 of 2011 was instituted by the Adarsh Society and one Member challenging (i) recommendations made in the Minutes of 20th meeting of National Coastal Zone

Management Authority (NCZMA) convened on 11.11.2010; (ii) Show Cause Notice dated 12.11.2010 issued by Dr. Bharat Bhushan, Director of Ministry of Environment and Forests (MOEF), (iii) Report dated 13.1.2011 made by Dr. Nalini Bhatt, Adviser and Competent Authority appointed by MOF; (iv) Order dated 14.1.2011 passed by Dr. Bharat Bhushan, Director of MOEF, (v) Order dated 16.1.2011 passed by Mr. Jayram Ramesh, the then Hon'ble Minister, MOEF. By these orders, Adarsh Building is ordered to be demolished in its entirety.

5. By a separate Judgment and order passed today in Writ Petition No.369 of 2011, we have dismissed the Writ Petition thereby upholding the order of demolition of Adarsh Building in its entirety. In that order, we have recorded consensus arrived at between learned counsel appearing for the parties that the decision rendered in Writ Petition No.369 of 2011 will govern the fate of this petition. In view thereof and for the reasons recorded in that order, this Petition fails and the same is dismissed.

6. At this stage, Mr. Seervai orally applies for stay of this order for the period of 12 weeks from today. Learned counsel for respondents opposed this application.

7. Having regard to the fact that the petition is pending in this Court since the year 2012 and petitioners intend to challenge this order in the higher court, we find that request made by Mr. Seervai is reasonable. Hence, notwithstanding dismissal of the

petition, this order shall remain stayed for a period of 12 weeks from today subject to clear understanding that no further request for extension of time shall be entertained.

(R.G.Ketkar,J.)

(Ranjit More,J.)