

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**CIVIL APPLICATION NO. 1685 OF 2017
IN
WRIT PETITION NO.8362 OF 2016**

Mr. Salman Ahmad Tufail
Ahmad Siddiquie and others ... Applicants.

In the matter between

Smt. Safiya Noor Ali Ansari ... Petitioner
Versus
Bhiwandi Nizampur City Municipal
Corporation and others ... Respondents

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Mr. Reyas Ansary for the Applicants.
Ms. Vaibhav P. Patankar i/b. Mr. M.S. Lagu for the Petitioner.
Mr. N.R. Bubna for Respondent No.1.
Mr. A.A. Alaspurkar, AGP for Respondent-State

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**CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ.**

DATE : 20th JULY, 2017

P.C.:

1. Heard the learned Counsel for the Applicants.
2. The learned Counsel appearing for the Applicants states that the Applicants have entered the possession of the shops on the ground floor of the building subject matter of the Writ Petition, in the year 2015. The first prayer is for intervention. The second prayer reads thus:

“(b) this Hon'ble Court be pleased to stay the order of demolition passed on dated 01/08/2016 and 06/07/2017 unless the proposal of the Regurgitation is decided.”

3. As far as second prayer is concerned, we have perused the orders dated 1st August, 2016 and 6th July, 2017. Both the orders do not direct demolition of the building in question. Therefore, there is no question to grant prayer clause (b).

4. Writ Petition has been filed seeking a writ of mandamus, directing the 1st Respondent to take action of demolition in respect of illegal building comprising of ground + 5 floors.

5. It appears from the annexures to the Petition that, a notice under section 478 (1) of the Maharashtra Municipal Corporation Act, 1949 was issued in respect of the said building on 3rd April, 2014. By that time, the construction of ground + 1st floor was in progress. Even, according to the case of the applicants, they have entered into possession in 2015. The applicants have not challenged the action of demolition initiated by the Municipal Corporation by filing appropriate proceedings.

6. The applicants have entered the possession after action of demolition was already initiated by the 1st Respondent.

7. In this Writ Petition, there is no direction issued by this Court to the 1st Respondent to demolish the building in question. Therefore, the intervention of the applicants is misconceived. Subject to what is observed above, we decline to entertain this application and the same is rejected.

(SMT. VIBHA KANKANWADI, J)

(A.S. OKA, J)