

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.11289 OF 2016

M/s.Sheetal Paradise Co-operative
Housing Society Ltd.

.. Petitioner

Vs

The Commissioner of Mira Bhayandar
Municipal Corporation and Others.

.. Respondents

—

Shri Sachin A. Mhatre for the Petitioner.

Shri Mayuresh S.Lagu for the Respondent Nos.1 to 3.

Shri Rakesh Kumar i/b Shri Vijendra S. Jabra for the Respondent No.4.

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

DATED : 31ST JULY 2017

PC.

1. Rule. The Advocate for the first and third Respondents waives service. The Advocate for the fourth Respondent waives service.

2. The Petitioner which is a Co-operative Housing Society registered under the Maharashtra Co-operative Societies Act, 1960 (for short “the said Act”) has taken an exception to the notice dated 19th September 2016 (Exhibit-H to the Petition) issued by the first Respondent under Sub-sections (1), (2) and (3) of Section 264 of the

Maharashtra Municipal Corporations Act, 1949 (for short “the said Act of 1949”). By the said notice, by relying upon the opinion of a structural consultant, the Municipal Corporation directed demolition of the building which is subject matter of this Petition. By another notice dated 16th September 2016 (Exhibit-G to the Petition), the Municipal Corporation informed the Petitioner that the building should be demolished by 30th September 2006.

3. The learned counsel appearing for the Petitioner has placed on record a communication/order dated 12th July 2017 issued by the Executive Engineer of the Public Works Department of Mira Bhayandar Municipal Corporation under Section 265-A of the said Act of 1949 by which the Petitioner has been granted permission to carry out repairs. The said communication is taken on record and marked “X1” for identification.

4. As the repair permission has been granted for repairing the building, it is obvious that the impugned notice dated 19th September 2016 (Exhibit-H to the Petition) and another notice dated 16th September 2016 (Exhibit-G to the Petition) cannot be implemented now as both the orders/notices have been issued calling upon the demolition of the building. Now, by grant of repair permission dated 12th July 2017, the Municipal Corporation seems to be of the view that the

building in question can be repaired and, therefore, the repair permission has been granted by the Municipal Corporation.

5. The learned counsel appearing for the fourth Respondent also accepts that now the impugned notices cannot be implemented. In view of the subsequent permission dated 12th July 2017 granted by the Designated Officer of the Municipal Corporation, now there is no occasion to implement the impugned notice dated 19th September 2016.

6. Accordingly, we dispose of the Petition by passing the following order:-

ORDER :

- (a) The impugned notice dated 19th September 2016 (Exhibit-H to the Petition) as well as the impugned notice dated 16th September 2016 (Exhibit-G to the Petition) have become inoperative by virtue of the repair permission dated 12th July 2017 granted by the Mira Bhayandar Municipal Corporation;
- (b) Rule is, accordingly, made absolute;

- (c) The Petition is disposed of on above terms;
- (d) All concerned to act upon an authenticated copy of this order.

(VIBHA KANKANWADI, J)

(A.S. OKA, J)