

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

WRIT PETITION NO.1895 OF 2016

Hashir Abdul Gazdar : **Petitioner.**
versus
Mumbai Building Repairs and
Redevelopment Board and ors. : **Respondents.**

Ms. Eventa A Gonsalves for the Petitioner.
Ms. K H Mastakar for the Respondent Nos.4 and 5 - Municipal Corporation
of Greater Mumbai.
Mr. Nisar A Ghatte for the Respondent No.6.

CORAM : R. M. SAVANT &
A.S.GADKARI, JJ.
DATE : 05th JUNE 2017

P.C.

1 The writ jurisdiction of this Court under Article 226 of the Constitution of India is invoked for seeking a direction that the Respondent Nos.4 and 5 i.e. the Municipal Corporation of Greater Mumbai ("MCGM" for short) be restrained from initiating any action against the Petitioner in respect of the repair work which the Petitioner is entitled to carry out as NOC holder in accordance with the sanctioned plans. The second relief that is sought is for a direction to be issued to the Respondent Nos.1, 2 and 3 to provide transit accommodation to the Respondent Nos.6 and 7 during the repair work of the said building.

2 The aforesaid reliefs are founded on the fact that the Petitioner has

been granted an NOC by the Respondent Nos.1, 2 and 3 for carrying out certain repair work mentioned in the said NOC. The Respondent Nos.6 and 7 according to the Petitioner are the non-cooperative tenants of the building of which the Petitioner is the landlord. It is required to be noted that the Petitioner in his capacity as being landlord of the premises has filed suits in the Small Causes Court for eviction against the Respondent No.6. It is an undisputed position that the said suits are pending.

3 In our view having regard to the provisions of the Maharashtra Rent Control Act, 1999 it is not necessary to entertain the above Writ Petition as the Petitioner can very well file an application in the suits filed by him in the Small Causes Court for the relief that the Respondent No.6 permits the Petitioner to carry out the repairs in terms of the NOC. If any such application is filed, needless to state that the said application would be considered by the concerned Court on its own merits and in accordance with law.

4 In so far as the prayer clause (b) is concerned, the Petitioner can approach the Respondent Nos.1, 2 and 3 for allotment of transit accommodation to the Respondent Nos.6 and 7. If any such application is filed or is already filed, the Respondent Nos.1, 2 and 3 are directed to consider the same in accordance with law as also having regard to the fact as to whether the Respondent Nos.6 and 7 are required to be moved out of the tenanted

premises. Needless to state that the same would be without prejudice to the rights and contentions of the parties in the suits. With the aforesaid directions the above Writ Petition is disposed of.

[A.S.GADKARI, J]

[R.M.SAVANT, J]