

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

WRIT PETITION (L) NO. 1700 OF 2017

Darshan Developers
and another

... Petitioners.

Versus

Municipal Corporation of
Greater Mumbai and others

... Respondents.

....

Mr. Mayur Khandeparkar a/w Ms. Perna Lalchandani, Mr.
Chinmaya Acharya i/b. Perna R. Lalchandani for the Petitioner.
Mr. Abhay L. Patki, AGP for Respondent Nos.4 and 5.
Ms. K.H. Mastakar for MCGM.

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***CORAM : Smt. Vasanti A Naik &
Riyaz I. Chagla, JJ.***

DATE : 29th November, 2017.

P.C. :

By this writ petition, the petitioners seek a direction against the respondent-Corporation and its authorities to take immediate action for demolishing the unauthorized structures-encroachment on the property of the petitioners bearing C.S. no.375 of Mazgaon division known as Tarabaug.

According to the petitioners, the petitioner No.1-developer and the petitioner no.2 society are involved in the redevelopment of the project under Regulation 33(7) of the Development Control Regulations for Greater Mumbai, 1991. According to the petitioners, certain disputes cropped up between the petitioners

and the occupants of the building and when the matters went up to the Hon'ble Supreme Court, by an order dated 01.05.2017, the special leave petition was disposed of with the consent of the parties on the terms mentioned in the order. It is the case of the petitioners that according to one of the consent terms, if the petitioner no.2 fails to hand over the redeveloped permanent construction within thirty months from the date of vacation of the premises to the occupants, the petitioner no.1 in the instant petition would be liable for the contempt of the Hon'ble Supreme Court. It is stated that though the occupants of the said structures have vacated the premises in terms of the consent-order, the petitioners are not in a position to redevelop the property and construct on the concerned land as certain unauthorized structures have come up on the land. It is stated that it would be duty of the Corporation to remove the unauthorized structures-encroachment. It is stated that though several representations are made by the petitioners to the respondent nos. 1 to 3, the respondent nos. 1 to 3 have not responded to the same. It is stated that the Corporation authorities have conveyed to the petitioners vide communication dated 17.08.2013 that appropriate steps would be initiated for the removal of the encroachment, but no steps, whatsoever are taken by the respondent nos. 1 to 3 in that regard.

In the circumstances of the case, it would be necessary to direct the respondent nos. 1 to 3 to take immediate steps for demolishing the unauthorized structures and for removal of the encroachment. We, therefore, dispose of the writ petition with a direction against the respondent nos. 1 to 3 to initiate action for

demolition of the illegal structures and for the removal of encroachment within two weeks and remove the encroachment as early as possible. Order accordingly. No costs.

(Riyaz I. Chagla J)

(Smt.Vasanti A Naik, J)