

Jsn

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

WRIT PETITION (L) NO. 1949 OF 2017

Mahendrakumar Ambalaji Sankhala & 2 ors. ... Petitioners
Versus
The Municipal Corporation of Greater Mumbai ... Respondents
& 3 Ors.

WRIT PETITION (L) NO. 1633 OF 2017

Anil Agrawal ... Petitioner
Versus
The Municipal Corporation of Greater Mumbai ... Respondents
& 3 Ors.

WRIT PETITION NO. 1930 OF 2017

Naresh Sunderji Pawani & 6 Ors. ... Petitioners
Versus
The Municipal Corporation of Greater Mumbai ... Respondents
& 3 Ors.

Mr. Pradeep Thorat, i/b Bipin J. Joshi, for petitioner in WPLNos.1949 & 1633 of 2017.
Mr. J.S. Kini, with Mr. Suresh Dubey for Petitioner in WP No. 1930 of 2017.
Mr. M.P. Rao, with Mr. Laukik Palekar, i/b Sanskar Marathe for Respondent No.3.
Ms. S.M. Modle, for MCGM.
Mr. Piyush M. Shah, for Respondent No. 4.

**CORAM: SMT. VASANTI A NAIK AND
RIYAZ I. CHAGLA, JJ.**
DATED: 11th OCTOBER 2017

PC:-

By this writ petition, the petitioners have impugned the notice of the Corporation dated 19th July 2016 under Section 354

of the Mumbai Municipal Act. The petitioners have also sought a direction against the respondent to forthwith restore the water connection to the said building, particularly to the shops occupied by the petitioners.

We find that though at the time of the filing of the writ petition, only the landlords had submitted the report of the structural engineer that the building is in dilapidated state and if the building was not demolished, there would be loss to the life or limb of the people residing in the same and the people residing in the adjoining buildings, after the writ petition is filed, reports of structural engineers appointed by the petitioners are submitted to point out that the building could be repaired.

Since, conflicting reports are furnished by the petitioners and the respondent – landlords to the Corporation, it would be necessary for the Corporation to refer the matter to the Technical Advisory Committee, as per the directions of this Court, in original writ petition bearing (L) no. 1135 of 2014. The Technical Advisory Committee need to conduct tests, as laid down by this Court in the judgment in the aforesaid writ petition and submit a report and take appropriate action in pursuance of its report.

In the circumstances of the case, since it would be necessary to refer the matter to the Technical Advisory Committee, we dispose of the writ petition by passing the following order:-

1. The Corporation should refer the matter to the Technical

Advisory Committee within 10 days.

2. The Technical Advisory Committee should follow the guidelines, as laid down in the judgment in writ petition no. 1135 of 2014 and furnish its report within two months from the date on which the matter is referred by the Corporation to the Technical Advisory Committee.
3. Since the matter is referred to Technical Advisory Committee, in the circumstances of the case and in the interest of justice, the Corporation should provide the water supply to the premises occupied by the petitioners in this writ petition till the report of the Technical Advisory Committee is received.
4. The Corporation may take appropriate action in pursuance of the report of the Technical Advisory Committee as early as possible.
5. The petitioners and the respondents – landlords should contribute for the expenses that would be incurred by the Technical Advisory Committee for conducting the tests.
6. No order as to costs.

(RIYAZ I. CHAGLA J.)

(SMT. VASANTI A NAIK, J.)