

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 515 OF 2017

Smt.Ramila Rajnikant Kilachand and anr. .. Petitioners
Vs.
Municipal Corporation for Greater Mumbai and ors. .. Respondents

Mr.Datta Mane, for the Petitioners.
Ms.K.H.Mastakar, for Respondents No. 1, 2, 6, 7 & 8.
Mr.Milind More, Addl. Govt. Pleader for Respondent No. 3 – State.
Mr.Chetan Kapadia a/w Mr.Sharad Wakchure i/b M/s. Kishore
Thakordas & Company, for Respondent No.8.

**CORAM : B.R.GAVAI AND
M.S.KARNIK, JJ.**

DATE : 22nd AUGUST, 2017

P.C. :

. The petitioners have approached this Court praying for direction to respondents No.1, 2, 6 & 7 to carry out inspection of the Earth Castle Mall and Residency building situated at the address given in the Petition.

2. It is the contention of the respondents No. 4 & 5 that respondent No. 10 by demolishing the heritage structure has constructed the building.

3. On a pertinent query as to what is the locus of the present petitioners, learned Counsel for the petitioners submits that the land originally belongs to Kilachand Devchand Family Trust to which family the petitioners also belong.

4. We find that the present Petition is a Writ Petition and not a Public Interest Litigation. No doubt that the extended scope of locus as has been laid down by the Apex Court in the case of **S.P. Gupta Vs. Union of India AIR 1982 SC 149** would enable the party to approach the Court for espousing the cause of persons even if such a person who approaches the Court is not directly an aggrieved person. However, for the person or class of persons whose cause is sought to be espoused must be the persons who on account of social and economical reasons are not in a position to espouse their cause themselves.

5. The present Petition being not a Public Interest Litigation, we find that the petitioners who are not personally aggrieved cannot get the locus to file the present Petition. If the petitioners have individual rights to be agitated on the basis of they being members of Kilachand Devchand Family Trust and if at all, it is

their case that their personal rights have been violated, then remedy by way of present Petition would not be a proper remedy as much as for deciding the said issue, the disputed questions of fact and law will have to be gone into which cannot be done without the parties leading the evidence in support of their case.

6. Apart from that, it is informed at the bar that the petitioners have already filed a Suit being Suit No. 2110 of 2004 for partition of the property and the said Kilachand Devchand Family Trust's property and present property are also the subject matter of the said Suit.

7. In that view of the matter, we are not inclined to entertain the Petition at the behest of the present petitioners. Petition is rejected.

(M.S.KARNIK, J.)

(B.R.GAVAI, J.)