

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 259 OF 2017

New Borivali Prajakta Co-operative
Housing Society Limited. .. Petitioner

Vs.
Municipal Commissioner,
The Municipal Corporation of
Greater Bombay and ors. .. Respondents

Mr.Omkar Khanvilkar a/w Ms.Priyanka Rathi i/b Solicis Lex, for
the Petitioner.
Ms.K.H.Mastakar, for MCGM.

**CORAM : NARESH H. PATIL AND
M.S.KARNIK, JJ.**

22nd MARCH, 2017

P.C. :

. Learned Counsel for the petitioner – Society submits
that the subject building plan (shops plus 1 to 7 upper floors)
was sanctioned by the Municipal Corporation in the year 2004.
Learned Counsel appearing for the petitioner submits that the
occupation certificate upto 4th floor was obtained by the
developer and for the upper floors, so far no occupation

certificate is obtained. Some occupants are illegally occupying the flats. Learned Counsel submits that the representation was addressed to the Municipal Commissioner, MCGM on 05/12/2016 (Exhibit 'G').

2. Learned Counsel appearing for the Corporation has brought to our notice the communication made by Sub-Engineer, 'R' Ward addressed to some occupants who were said to be residing in the subject building.

3. We have perused the record placed before us and submissions. In the facts, we direct that the Corporation shall issue notice to developer and occupants of the units/flats on the 5th, 6th and 7th floors of the subject building and to the Chairman/ Secretary of the petitioner Society.

4. The petitioner shall be heard by the Assistant Commissioner, 'R' Central Ward. The Assistant Commissioner thereafter shall take appropriate decision and a brief reasoned order shall also be passed. All issues on merits are kept open.

This exercise shall be completed within 8 weeks from today.

5. Writ Petition is disposed of in the above terms.

(M.S.KARNIK, J.)

(NARESH H. PATIL, J.)