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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.400 OF 2018
IN
WRIT PETITION NO.11398 OF 2017

Jawahar Jyoti Cooperative Housing Society Ltd. ... Applicant

Vs.

Thane Municipal Corporation ... Respondent

Mr. Nitin Gangal for the Applicant.

Mr. N.R. Bubna for the Respondent No.1.

CORAM : A.S. OKA &
RIYAZ I. CHAGLA, JJ.

DATE : 13th MARCH, 2018

PC.

1 Heard the learned counsel appearing for the applicant and the learned counsel appearing for the respondent. The learned counsel appearing for the applicant states that this application was filed on behalf of 26 members of the applicant whose names appear in Exhibit – D to the Civil Application. He states that the member at Sr. No.8 - Mr. R.B. Yadav, the member at Sr. No.14 - Ms. Punam Jaggi and member at Sr.No.16 – Mr. Gujjadi G have already vacated the premises/flats in their respective possession. We accept the statement. He states that one Sachin L. Jangid is also a member of the applicant who has tendered an

undertaking, is in possession of Flat No.3/9. We, accordingly, direct the applicant to amend Exhibit – D and to add the name of the said person. Amendment to be carried out within a period of one week from the date on which this order is uploaded.

2 This Civil Application is filed in Writ Petition which is disposed of by the order dated 10th October, 2017. Relevant direction issued reads thus :-

“Hence, we dispose of the writ petition with a direction against the Corporation not to take any coercive steps against the petitioner for a period of four months, if the members of the petitioner- society furnish an undertaking in this Court within three weeks that they would vacate the premises within four months from the date of this order and they would reside in the said building for four months at their risk. Order accordingly. No costs.”

3 Present application is for grant of extension of time. 24 members of the applicant who are in possession of the respective premises have filed separate undertakings in which they have solemnly undertaken to vacate their premises on or before 10th May, 2018. Further undertakings are also incorporated in paragraph 3 of the said separate undertakings. Undertakings are taken on record and marked as “U-1” to “U-24” for identification. It is only in the light of undertakings

and by way of indulgence on humanitarian grounds that we are extending the time till 10th May, 2018. We make it clear that no further extension will be granted. The applicants will have to file additional undertakings stating therein that in the event of fall of the building or any part of the building in which they are residing, they will be solely responsible for the loss or damage which may be caused to any third party.

4 Hence, we dispose of the application by passing the following order :-

ORDER

- (i) Undertakings marked as “U-1” to “U-24” are accepted;
- (ii) Time to vacate granted to the said members of the applicants who have filed undertakings marked as “U-1” to “U-24” is extended till 10th May, 2018 subject to condition of the said 24 members of the applicant filing further undertakings on oath stating that in case of fall of the concerned building or any part thereof, they will be solely responsible for the loss or damage which may be caused to the third parties. Such undertakings shall be filed within a period of three weeks from today

failing which protection granted under this order shall stand vacated without further reference to the Court;

(iii) We make it clear that the benefit of extension of time is granted only to the 24 members who have given undertakings and no other member will be entitled to its benefit. On the failure of the said 24 persons to remove themselves and vacate their respective premises on or before 10th May, 2018, it will be open for the Municipal Corporation to evict the said persons, if necessary with the police help and take further steps on the basis of the notice impugned in the Writ Petition;

(iv) Civil Application is disposed of on above terms.

(RIYAZ I. CHAGLA, J)

(A.S. OKA, J)