

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2382 OF 2017
IN
WRIT PETITION NO. 5215 OF 2013

Dr.Sumedh Vinayak Anathpindika and others.	...	Applicants.
In the mater between		
Gajanan Developers and others.	...	Petitioners.
V/s.		
The District Collector, Pune and others.	...	Respondents.

Mr.Manoj M. Badgujar for the applicant.
Mrs.R.A.Salunkhe, AGP for the respondent-State.

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

DATE : 23rd April 2018.

PC.:

Heard the learned counsel appearing for the applicant. Perused the order dated 27th January 2016 passed by this Court in writ petition. The order of demolition of upper floors was confirmed by the said judgment and order and, therefore, now the demolition of 5th, 6th and 7th floors of the subject buildings will have to be carried out. This application is filed by some of the flat purchasers who are in possession of the flats on 1st to 4th floors. The contention in the application is that an action of demolition will have to be taken without affecting in any manner safety and security of lawfully erected floors as well as safety of the occupants of the said floors. Another contention is that the applicants be

informed about the manner in which the demolition of 5th, 6th and 7th floors will be carried out.

2. There is a reply filed by Smt. Geeta Dilip Dalvi, Tahasildar, Pune City which is dated 16th November 2015. In the said reply, it is contended that now an action will have to be taken by the Municipal Corporation of the City of Pune as by the Government Resolution dated 4th October 2017, the land on which the subject building has been constructed has been included in the municipal limits of the said Municipal Corporation.

3. Therefore, the State Government will have to issue necessary directions to the Pune Municipal Corporation to take immediate action of demolition of illegally constructed 5th, 6th and 7th floors of the said buildings.

4. The Pune Municipal Corporation will have to naturally issue notice at least two weeks in advance to the occupants of the floors up to 4th floor before initiating action of demolition. Needless to add that the Pune Municipal Corporation will have to take all measures to ensure that no damage is done to the premises in lawful portion of the buildings and to the occupants thereof.

5. We, therefore, dispose of this civil application by passing the following order:

- (i) We direct the State Government to issue necessary directions to the Pune Municipal Corporation to carry out demolition of the illegal floors of the subject buildings. Such directions shall be issued within a period of two months from today;
- (ii) After the directions are issued, the Pune Municipal Corporation will have to take steps for demolition after issuing notice to the occupants of the lawfully constructed floors. Notice shall be served at least two weeks in advance before the action of demolition is to be taken. While carrying out the work of demolition, the Pune Municipal Corporation will have to ensure that the premises of the occupants of the buildings up to and including 4th floor are not damaged;
- (iii) We direct the office of the Government Pleader to forward a copy of this order to the office of the Pune Municipal Corporation;
- (iv) Civil application is disposed of in the above terms.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)