

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

WRIT PETITION NO.1232 OF 2018

Nasir Palace Tenants Association

..Petitioners

Versus

Mumbai Building Repair & Construction

Board and others

..Respondents

**Mr. A. A. Siddiqui and Ms. Farzana I. Sawant, Advocate for the
Petitioners.**

Mr. V. P. Sawant, Advocate for the Respondent Nos.1 and 2.

Ms. Uma Palsuledesai, AGP for the Respondent No.3 – State.

**Mr. R. A. Shaikh a/w Mr. Sharif Khan I/by Md. Jamil Khan,
Advocate for the Respondent No.9.**

**Ms. Trupti Puranik, Advocate for the Respondent No.10 –
MCGM.**

CORAM : B. R. GAVAI &

M. S. KARNIK, JJ.

DATE : 20th AUGUST, 2018

P.C.

1] The Petitioners have approached this Court claiming to be association of tenants seeking direction to the Respondent Nos.1 and 2 to acquire the said laid and building known as 'Nasir Palace'.

2] It is the contention of the Petitioners that they are

tenants of the said building. It is therefore submitted that the building is 98 years old and is in dilapidated condition. The Respondent Nos.1 and 2 should be directed to redevelop the said building. It is submitted that however the Respondent No.9 is claiming to be the co-owner is causing hindrance to the same.

3] In an affidavit filed by Respondent No.9, the claim of the Petitioners that they are tenants is denied. It is stated by the Respondent No.9 that eviction proceedings are also initiated against the so called tenants.

4] Since the foundation of the Petition is on the basis of the tenancy between the tenants and the landlords, which is seriously disputed by the Respondent No.9 – landlord, we are afraid as to how such an issue can be gone into by this Court under Article 226 of the Constitution of India.

5] The Petitioners cannot be said to be without any remedy. The Petitioners can very well raise their claim and get the same adjudicated before the competent Court i.e. Small Causes Court in so far as the area of Mumbai is concerned.

6] In that view of the matter, we are not inclined to entertain the present Petition in the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India. The Petition is therefore rejected.

7] Needless to state that rejection of the present Petition would not come in the way of the Petitioners to assert their rights, if such remedies are available to them in law.

Balaji
Govindrao
Panchal

Digitally signed by
Balaji Govindrao
Panchal
Date: 2018.08.23
14:51:44 +0530

[M. S. KARNIK, J.]

[B. R. GAVAI, J.]