

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

WRIT PETITION NO. 716 OF 2016

Murgi Mohallah Masjid Trust and Others. ..Petitioners.

Versus

Municipal Corporation for Greater
Mumbai and Others. ..Respondents.

Ms. Rupali Adhate for MCGM.

Mr. S. K. Chourasiya I/b S. K. C. Legal for Respondent No. 4.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.

Date : **December 14, 2018.**

P. C. :

1. None appears for the Petitioner. Heard learned counsel for the Respondent-Corporation and learned counsel for Respondent No. 4. The petition is filed for the following relief :

"[b] this Hon'ble Court may be pleased to issue a Writ of Mandamus and/or any other appropriate Writ, order and/or directing the Respondents to demolish the said illegal structure situated at house gully between two buildings i.e., Yuraj House at 82, trinity street and 78/80, Trinity Street, Dhobi Talao, Mumbai - 400 002, and encroachment of the same till the main gate of 78/80 building and blocked the entrance of the shop premises situated at ground floor of Building 78/80, Trinity Street, Dhobi Talao, Mumbai - 400 002."

2. In reply to the petition, the Respondent-Corporation has filed an affidavit. In paragraph 4 thereof, following averments are made on behalf of the Respondent-Corporation :

"I say that in reply to the same, Executive Engineer (Building Proposal) informed that the proposal submitted by Architect of Mohd Kaiser Ansari in pursuance to the Hon'ble Court order dt. 17.10.2017 passed in First Appeal No. 725 of 2010 was rejected by these respondent as the proposal does not fit under the provision of D.C. Regulation. However, it is further stated that documents submitted by the applicant show that the structures are very old existing and may come under the category of tolerated structure."

3. The MCGM has also placed on record copy of the letter dated 19th June 2014 (at Exhibit-IV) written by the Assistant Engineer (Bldg. and Factory) "C" Ward. This letter shows that the subject structure is in existence since prior to 1961-62 and it falls under the category of "tolerable structure". Learned counsel for the Respondent-Corporation on instructions makes a statement that if any unauthorized construction is made other than the tolerable structure, the same will be dealt with in accordance with the Maharashtra Regional and Town Planning Act, 1966 and the Mumbai Municipal Corporation Act, 1888. Statement is accepted as an undertaking to this Court.

4. In the light of above, we dispose of this petition.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]