

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

WRIT PETITION (LDG.) NO. 569 OF 2018

Soli J. Sorabjee and another. ... Petitioners.

V/s.

Municipal Corporation of Greater Mumbai
and others. ... Respondents.

Mr.Nikhil Sakhardande i/b. Mr.Pralhad D. Paranjape for the petitioners.
Mr.A.Y.Sakhare, Senior Advocate with Ms.Vandana Mahadik
for the respondent- MMC.
Ms.Prerana Lalchandani for respondent No.6.

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

DATE : 6th April 2018.

PC.:

Heard the learned counsel appearing for the petitioners, the learned counsel appearing for the sixth respondent, the learned senior counsel appearing for the first to fifth respondents. In terms of the order dated 1st March 2018, Shri Sandeep K. Gite, Assistant Engineer, Building and Factory, D-Ward has filed an affidavit dated 26th March 2018. The Assistant Commissioner, D-Ward made a site visit on 12th March 2018. In paragraphs- 3 to 5 of the affidavit, he has stated thus:

“3. I say that pursuant to the said Order, the the Asst. Commissioner “D” ward has inspected the site under reference on 12-03-2018, when spalling of plaster of

south side external wall from 6th & 7th of the structure was seen. Further, the shade net found on the south side external wall from 30th floor of the structure.

4. Thereafter, M/s.Rohan Developers Pvt. Ltd. has replied vide letter dtd. 21-03-2013 submitted to 'D' Ward on 23-03-2018 wherein they have requested this office to allow them time to carry out necessary repair works. Further, they have assured that the work shall be certified by a reputed Structural Engineer and shall be absolutely up to the mark which should satisfy all the members involve in the redevelopment schemes as well as Mr.Soli Sorabjee/ Jehangir Sorabjee. The copy of details site visit report dated 12.03.2018 and 23.03.2018 is annexed hereto and marked as "Exhibit-1". Similarly, the copy letter dated 21.03.2018 submitted to office of Asst. Commissioner 'D' Ward on 23-03-2018 is annexed hereto and marked as "Exhibit-2".

5. Accordingly, the Asst. Commissioner "D" ward has again inspected the site under reference on 23-03-2018 and during the site visit, the erection of scaffolding work found in progress at Ashiana CHS, 25, Nepean Sea Road, Kemps Corner, Malabar Hill, Mumbai- 400 036. Photographs of the same are attached herewith. The photographs taken during site visit on 23.03.2018 are annexed hereto and marked as "Exhibit-3 Colly."

The photographs annexed as Exhibit-3 (Collectively) to the said affidavit show the site as on 23th March 2018.

2. Today, Shri Haresh N. Mehta, a Director of sixth respondent has tendered an undertaking affirmed today. The learned counsel appearing for the sixth respondent states that Shri Mehta who has

tendered the said affidavit-cum-undertaking has been duly authorized by the sixth respondent to give undertaking on its behalf.

3. We have perused the affidavit-cum-undertaking of Shri Haresh N. Mehta. The assurance and undertaking given by Shri Mehta, as of today, take care of the grievances made in the petition.

4. If in future, any occasion arises for the petitioners to make any grievance, the petitioners can always approach the Assistant Commissioner, D-Ward with a complaint. We are sure that the Assistant Commissioner, D-Ward will immediately look into the complaint and take action in accordance with law at the earliest.

5. Considering the undertaking of Shri Haresh N. Mehta given on behalf of the sixth respondent and subject to what is observed, it is not necessary to keep the petition pending and, accordingly, we dispose of this petition by passing the following order:

(i) We accept the undertaking of the sixth respondent in the affidavit of Shri Haresh N. Mehta tendered today and mark the same as "U1" for identification. In view of the said undertaking, at this stage, no directions are required to be issued in this petition;

(ii) If an occasion arises, the petitioner can always make a written complaint to the Assistant Commissioner of D-Ward. If such a complaint is made, the Assistant Commissioner, D-

Ward shall immediately look into the same and take an appropriate action in accordance with law;

(iii) We make it clear that in case any breach of the undertaking is committed by the sixth respondent, it is always open for the petitioners to take out appropriate proceedings in accordance with law;

(iv) Time to carry out amendment is extended by a period of two weeks from the date on which this order is uploaded;

(v) The petition is disposed of accordingly.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)