

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

NOTICE OF MOTION NO. 347 OF 2017
IN
WRIT PETITION NO. 1173 OF 2016

Rohan J. Tiwari and others.	...	Applicants.
In the matter between		
Rohan J. Tiwari and others.	...	Petitioners.
V/s.		
Municipal Corporation Greater Bombay		
and others.	...	Respondents.

Mr.Drupad S. Patil with Ms.Shruti Tulpule for the applicants.
Mr.R.S.Apte, Senior Advocate with Ms.Shital Mane
for the respondent-MMC.

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

DATE : 21st March 2018.

P.C.:

The first prayer in this notice of motion taken out by the applicants who are writ petitioners is for directing the Municipal Corporation to restore the upper floor. In the alternative, a prayer is made to permit the applicants to reconstruct the first floor at the cost of the Municipal Corporation. There is a reply filed by Shri Milind M. Ghalsashi, Assistant Engineer of the Municipal Corporation in which he has stated that the occupants of the first floor which was demolished by the Municipal Corporation have been provided with an alternate accommodation. In paragraph-6 of the reply, he has stated thus:

“6. With respect to prayer clause b and c, I say that Petitioner can apply to these Respondents for restoration/ developing the 1st floor and the same can be granted after approvals from higher authorities as per terms and conditions.”

2. In view of the fact that the Municipal Corporation has already accommodated the occupants of the first floor and in view of the statement made in paragraph-6 of the reply, the drastic interim relief as prayed cannot be granted. However, the Municipal Corporation will have to abide by its statement made in paragraph-6 of the reply.

3. Accordingly, we pass the following order:

(i) We decline to grant prayer clauses (a) and (b). However, It will be open for the applicants to make an application in terms of paragraph-6 of the affidavit of Shri Milind Ghalsashi dated 7th March 2018. If such an application is made, the Municipal Corporation shall take an appropriate decision on the said application within a period of sixty days from the date of filing of the application. The decision taken shall be communicated to the applicants/petitioners;

(ii) Notice of motion is disposed of in the above terms.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)