

Sharayu Khot.

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

**WRIT PETITION (L) NO. 219 OF 2018
WITH
WRIT PETITION (L) NO. 1981 OF 2018
WITH
WRIT PETITION (L) NO. 1989 OF 2018
WITH
WRIT PETITION (L) NO. 2022 OF 2018**

Vijay Punjab Cooperative Housing Society Ltd. ...Petitioner

Versus

Union of India & Ors. ...Respondents

**WITH
WRIT PETITION (L) NO. 1983 OF 2018**

Jai Durga Cooperative Housing Society Ltd. ...Petitioner

Versus

Union of India & Ors. ...Respondents

**WITH
WRIT PETITION (L) NO. 1988 OF 2018**

Meher Cooperative Housing Society Ltd. ...Petitioner

Versus

Union of India & Ors.

...Respondents

WITH

WRIT PETITION (L) NO. 2012 OF 2018

Dashmesh Darshan Cooperative Housing Society Ltd. ...Petitioner

Versus

Union of India & Ors.

...Respondents

Mr. R.S. Apte, Senior Counsel a/w Mr. A.S. Jondhale, Ms. Yashoda Jondhale, Mr. K.K. Sonawane, Mr. Babu Singh Shekhawat, i/by Jondhale & Co., for the Petitioner in all WPLs.

Ms. Shehnaz (Sheroo) Vispy Bharucha (Daruwalla, a/w Mr. Gujar, for the Respondent No. 1-UoI in WPL/219/18.

Ms. Dhruti Kapadia, Ms. K.H. Mastakar and Vandana Mahadik, for the Respondent-BMC in all WPLs.

Mr. L.T. Satelkar, AGP, for the Respondent-State in WPL/219/18.

Ms. Jyoti Chavan, AGP, for the Respondent-State in all other matters except WPL/219/18.

**CORAM : ABHAY S. OKA AND
RIYAZ I. CHAGLA, JJ.**

DATE : 4 July 2018

ORDER :

1. The learned Senior Counsel appearing for the Petitioners in these Writ Petitions states that the members of the Petitioner Societies and all the occupants of all the premises in the buildings subject matter of these Petitions are ready and willing to file undertakings in this Court to vacate the premises in their respective possession and to handover the vacant possession of the same to the Municipal Corporation for demolition on or before 31st October 2018. He, however, submits that the right of the Petitioners and their members to pursue their proposal for redevelopment of the property should be kept intact.

2. He invited our attention to the order dated 19th October 2015 passed in Writ Petition No. 59 of 2015 (United

Co-operative Housing Society Limited Vs. Municipal Corporation of Greater Mumbai & Ors.) and in particular, Clause 2 of paragraph 7 of the said order.

3. The prayer made by the learned Senior Counsel appearing for the Petitioners is opposed by the learned Counsel appearing for the Municipal Corporation by submitting that the subject buildings are in dilapidated and dangerous condition and may collapse at any time during the current monsoon.

4. Large number of families are occupying the said buildings which are the subject matters of these Petitions. There are school going children. Therefore, the prayer which is made deserves to be accepted by granting time to vacate till 31st October 2018.

5. Accordingly, we pass the following order:-

(i) The Petitions are dismissed as not pressed.

Notwithstanding the dismissal of the Writ Petitions, the Municipal Corporation shall not take an action of demolition of the buildings subject matters of these Petitions on the basis of the notice issued under Section 354 of the Mumbai Municipal Corporation Act, 1888 till 31st October 2018 subject to following conditions:-

(a) The authorised office bearers of the Petitioner Societies as well as all the members of the Petitioner Societies as well as the occupants of all the premises in the buildings subject matter of these Petitions filing undertakings on oath in this Court stating therein that they will vacate the premises in their respective possession on or before 31st October 2018 and shall handover vacant possession thereof to the Municipal Corporation

on or before the said date;

(b) The aforesaid persons shall also file undertakings stating that they will continue to occupy the premises in their respective possession at their own risk and that in the event of fall of the buildings or any part thereof, they will be solely responsible for the damage caused to the third parties; and

(c) Such undertakings shall also incorporate the premises or flat numbers of the persons filing the undertakings. If such undertakings are not filed within a period of one month from today, in relation to those premises in respect of which no undertakings are filed, it will be open for the Municipal Corporation to dispossess the persons found in such premises, if necessary with the help of police force;

- (ii) Needless to add that the copies of the undertakings shall be furnished by the Advocate for the Petitioners to the Advocates representing the Municipal Corporation;
- (iii) We make it clear that notwithstanding filing of the undertakings, it will be open for the Petitioners and their members to pursue the Application made to the District Collector and other authorities for redevelopment of the property. However, they will have to vacate in terms of the undertakings notwithstanding the outcome of the application;
- (iv) We make it clear that we have made no adjudication in the right of the Petitioners and their members to seek redevelopment of the property in accordance with law;

- (v) The Writ Petitions are accordingly disposed of in the above terms.

[RIYAZ I. CHAGLA J.]

[ABHAY S. OKA, J.]