

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

WRIT PETITION NO. 3111 OF 2018

Mohammed Tarique Mohammad
Iqbal Ansair.

..Petitioner.

Versus

The Commissioner
Municipal Corporation for Greater
Mumbai and Others.

..Respondents.

Mr. Wasim Ansari for the Petitioner.

Ms. K. H. Mastakar for MCGM.

Mr. Vishal Kanade and Mr. M. G. Saliyan, Shabhu Kumar I/b MGS Legal
for Respondent No. 5.

Ms Jaya Bagawe for Respondent No. 4.

Coram : RANJIT MORE &
REVATI MOHITE DERE, JJ.

Date : **November 27, 2018.**

P. C. :

1. Heard the learned counsel appearing for the respective parties. By filing this petition, the Petitioner is seeking following reliefs:

“(a) this Hon'ble Court be pleased to issue a writ of mandamus or any other writ, directions and orders in the like nature against Respondent Nos. 1 to 4 abovenamed directing them to cancel the NOC, IOD, CC and FCC (Exhibits- A to D annexed to the petition);

(b) this Hon'ble Court be pleased to order and direct Respondent Nos.1 and 3 to demolish the illegal and unauthorised constructions being carried on by Respondent No.5 at the suit property in accordance with Section 351 of the Mumbai Municipal Corporation Act, 1888, as well as under sections 52 to 55 of the

Maharashtra Regional and Town Planning Act, 1966;

(c) this Hon'ble Court be pleased to issue a writ of mandamus or any other writ, directions and orders in the like nature against the Respondent No.5 to deposit the conveyance deed and declaration both dated 22.05.2002 respectively (Exhibit-E and F annexed to the petition) and after impounding, the same be send before the concerned Sub-Registrar of Assurances at Mumbai to cancel the same;

(d) this Hon'ble Court be pleased to direct Respondent No. 1 to 4 to conduct an inquiry and after identifying the persons involved in the commission of offences mentioned hereinabove, file a complaint with t he concerned Police Station against the Respondent No. 5 and the persons involved thereof;"

2. The subject property, i.e., Building No.6, Chunawala Cottage bearing Cess No. E-3996 situated at 23-27, Sankli Street Cross Lane on land bearing CS No. 1760 of Byculla Division, Mumbai – 400 008 originally belonged to Abdul Sattar Fazluddin Chunawala. In the year 2002, the said owner executed a conveyance of this building in favour of Respondent No.5 for consideration of Rs. 10 lakh.

3. The building was occupied by 45 tenants including the Petitioner's father. Since building in question was cessed building, Respondent No. 5 obtained NOC from MHADA in the year 2012. In the year 2016, IOD was obtained from MCGM and the said building was demolished in the year 2016. Respondent No.5 thereafter obtained CC

in the year 2017 and started construction and as of today, construction has come up upto 11 floors.

3. The Petitioner has approached this Court for the reliefs stated hereinabove on the sole contention that conveyance-deed executed by the original owner of the building, namely, by Mr. Chunawala, in favour of Respondent No. 5 is fabricated and bogus one. The learned counsel for the Petitioner invited out attention to the signature of original owner on the said conveyance-deed at page 71 and rent receipt at page No.131 and submitted that there is discrepancy in the signatures. We have perused the said signatures and are unable to accept the Petitioner's contention.

4. Be that as it may, though the conveyance-deed is executed in the year 2002, and said owner was alive till 2012, no complaint is made in this regard by said owner, namely, by Mr. Chunawala. Nor the legal heirs of said Chunawala have made any complaint against the validity of conveyance-deed. All 45 tenants in the said building have executed agreements with Respondent No.5 under which Respondent No.5 has agreed to give them permanent alternate accommodations. Those 45 tenants are also getting rent in

lieu of transit accommodations. The Petitioner's father was one amongst these 45 tenants. He too has executed an agreement with Respondent No.5 and till the date of his death, that is upto March 2018, he was receiving rent. The present Petitioner after the death of his father has approached this Court with the extant writ petition.

5. In the light of above, we have no manner of doubt that the petition is filed with an ulterior motive and filing of the petition is sheer abuse of the process of Court. We are, therefore, not only inclined to dismiss the petition but also to impose exemplary costs on the Petitioner. We accordingly pass following order :

∴ ORDER ∴

Writ petition is dismissed with exemplary cost of Rs.25,000/-. Cost to be paid to TATA Memorial Hospital within the period of four weeks from today.

[REVATI MOHITE DERE, J.]

[RANJIT MORE, J.]