

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

WRIT PETITION [Ld.] NO. 3347 OF 2018

Estella Fernandes Nee Stella
Fernandes D'souza.

..Petitioner.

Versus

Swarna Highrise Constructions
and Others.

..Respondents.

Mr. Barnardo Reis and Shailesh Kumar Rai for the Petitioner.

Mr. Satish Kamat for Respondent No. 3.

Mr. Satish Muley for Respondent No. 1.

Mr. L. T. Satelkar, AGP for the Respondent-State.

Ms. Rupali Adhate for MCGM.

Ms. Krishna Patel I/b Kshitija Wadekar & Associates for Respondent
No. 5.

Coram : RANJIT MORE &
REVATI MOHITE DERE, JJ.

Date : **November 27, 2018.**

P. C. :

1. Heard learned counsel appearing for the respective parties. The Petitioner is challenging the notice issued to her under section 354 of the Mumbai Municipal Corporation Act, 1888 by Respondent No.2 - Corporation. The said notice is issued on the ground that the building in which the Petitioner is residing is dilapidated and categorised as C-1, i.e., unsafe for habitation. The Petitioner is disputing the said notice by relying upon structural auditor's report.

2. In the light of contradictory reports, this Court by the

order dated 16th October 2018 referred the matter to the Technical Advisory Committee [TAC]. The TAC was directed to submit its report within six weeks after visiting the site, examining the structural ability thoroughly.

3. Accordingly, the TAC has submitted its report dated 23rd November 2018. The TAC has come to the conclusion that the building known as Haji Manzil Building situated at CTS No. A/645, A/646 and A/647 of village Bandra, Chinchpokali Road, Bandra (West) Mumbai – 400 050 is deteriorated and is in dilapidated condition and may collapse any time without giving any warning which may endanger the life and property of residents and people residing in adjoining property and passers thereby. Further, the TAC has categorised the subject building in C-1 category. The TAC also opined that this structure needs to be vacated and demolished immediately. The said conclusion is arrived at by the TAC after perusing the structural audit reports, facts put up by all structural consultants, opinions / reports and visual observations made by the Committee during the site visit.

4. Be that as it may, the learned counsel for Respondent No.1 submitted that more than 70% of the occupants of the said building have already vacated the building and only 3 occupants

including the Petitioner, are refusing to vacate. He submitted that the the Petitioner is not co-operating in redevelopment of the property.

5. Taking into considerations facts and circumstances of the case, we are not inclined to entertain this petition in exercise of our jurisdiction under Article 226 of the Constitution of India. Writ petition is accordingly dismissed.

[REVATI MOHITE DERE, J.]

[RANJIT MORE, J.]