

DDR

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**APPEAL FROM ORDER ST. NO. 14519 OF 2019
WITH
CIVIL APPLICATION ST. NO. 14520 OF 2019
IN
APPEAL FROM ORDER ST. NO. 14519 OF 2019**

Salim Jamal Payak and ors. ..Appellants

vs.

Municipal Corporation of Greater
Mumbai & ors.

..Respondents

....

Shri Chirag Kamdar a/w. Prayag Joshi I/b. Bipin Joshi for
appellants.

Shri R.A. Thorat, Senior Advocate I/b. Sunita M. Poddar a/w.
V.K. Khandare for respondent Nos.7 & 8.

Ms. Vidya Nair I/b. Shri Jayesh Gawde for respondent Nos. 3 &
6.

Mrs. M. More for MCGM.

....

CORAM : M.S.KARNIK, J.

DATE : 14th JUNE, 2019

P.C. :

Learned Counsel for appellants challenging the order
of the trial Court invited my attention to the various reports of
TAC. He would submit that extensive alterations are made to the
suit structure contrary to law and contrary to report of TAC.

According to him, no permission is taken from corporation before changing the nature of suit structure.

2. Learned Senior Counsel Shri Thorat appearing on behalf of the respondent Nos. 7 and 8 filed an affidavit pointing out that there are no structural alterations made and there is no defiance of the report of the TAC Committee. He would submit that only some tenantable repairs as permissible under Section 342 of the Mumbai Municipal Corporation Act ("MMC Act" for short) are being carried out. The affidavit is filed to that effect.

3. Learned Senior Counsel Shri Thorat would thus submit that no repair beyond that which is permissible under Section 342 of the MMC Act is being carried out in the suit structure. In the affidavit he has specifically stated the nature of the tenantable repairs carried out. This is in view of the ensuing monsoon.

4. It is made clear that the Corporation is free to take action against the suit structure in accordance with law and as

per directions of the TAC Committee. Furthermore, even if the structure is to be repaired in terms of the directives of the TAC, the appellants would necessarily have to abide by the said recommendations of the TAC.

5. The Corporation is free to inspect the structure and ensure repairs that are being carried out are in accordance with Section 342 of the MMC Act. The corporation to take appropriate action if the same is not accordance with the provisions of the Section 342 of the MMC Act.

6. All parties agree that they have to abide by the directives of the TAC Committee and that the corporation can always take action in accordance with law in the event the recommendations of TAC Committee are not followed in letter and spirit.

7. Taking into consideration the reports of the TAC and the nature of the structure, it would be expedient for the corporation to inspect the structure and submit a report before

the trial Court as regards the tenantable repairs carried out. It is again made clear that the occupants are residing in the said structure at their own risk and they will not be holding corporation or anybody else responsible in the event of there being any mishap.

8. With these observations, the Appeal is disposed of.

9. In view of the disposal of the Appeal, nothing survives for consideration in the Civil Application. The Civil Application is disposed of.

(M.S.KARNIK, J.)