

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

WRIT PETITION Ld. NO. 566 OF 2019

Rafiq Mehboob Shaikh and Others.

..Petitioners.

Versus

MCGM & Others.

..Respondents.

Mr. R. A. Thorat, Senior Advocate with Hina A. M ody for the Petitioner.

Mr. Manish Upadhye, AGP for the Respondent-State.

Ms. K.H. Mastakar for MCGM.

Mr. Birednra Saraf along with Raksha Thakkar I/b Parinam Law Associates for Intervenor – Nahar Builders Ltd.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **February 26, 2019.**

P. C. :

1. Mr. Thorat, the learned senior counsel for the Petitioners having taken instructions from his client, makes a statement that at this stage he is not pressing the relief claimed in prayer clause (b). He therefore seeks leave to delete said prayer clause with liberty to take appropriate proceedings in that regard. Leave with liberty as prayed for is granted. Necessary amendment be carried out forthwith.

2. So far as the relief claimed in prayer clause (a) is concerned, the Petitioners had earlier challenged the notices issued under section 488 of the Mumbai Municipal Corporation Act, 1888 by filing writ petition being O.S. Writ Petition Ld. No. 2053 of 2017. The

said writ petition was dismissed by this Court vide order dated 8th August 2017, wherein the following observations are made :

"3. We have perused the provisions of section 488 of the Mumbai Municipal Corporation Act. The said provision enables the officer of the Corporation to enter into the premises of any person for the purpose of carrying out search and executing the works. In any case the notice is only for the purpose of carrying the inspection.

4. It is the contention of the Petitioners that there is an order passed by this Court thereby directing that the Petitioners should not be evicted without following due procedure of law. We do not find the impugned notices have been issued for evicting the Petitioners from the properties in respect of which notices are issued. If such an order is passed by this Court the Corporation is bound to avail the procedure as established by law before evicting the Petitioners."

3. Since the challenge in the present petition has been dealt with by the earlier bench in Writ Petition No. 2053 of 2017 and has been negatived, we are not inclined to entertain the present writ petition. In the result, petition is dismissed.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]