

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2098 OF 2017
WITH
CHAMBER SUMMONS NO. 94 OF 2019
IN
WRIT PETITION NO. 2098 OF 2017

Shirish Savadikar & Ors

...Petitioners

Versus

Assistant Municipal Commissioner, MCGM &
Ors

...Respondents

Mr Mayur Khandeparkar, *with S Sawant, i/b Himanshu Kode, for the Petitioners.*

Mr Rajiv Chavan, Senior Advocate, *with Rupali Adhate, for the Respondent-MCGM.*

Mr Karl Tamboly, *with A Singh, i/b Dhiren H Shah, for Respondent No. 4.*

Mr Kedar Dighe, *AGP, for Respondent No. 5.*

Mr Yunus Vakharia, *i/b M/s. Mulla & Mulla and Craigie Blunt & Caroe, for Respondent No. 7.*

Mr Jignesh Shah, *for Respondent No. 10.*

Ms Shriya Mehta, *with Sonali Gargade, i/b Solicis Lex, for the Applicant in CHS.*

**CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ**

DATED: 12th July 2019

PC:-

1. Having heard both sides and having expressed our disinclination to exercise the jurisdiction under Article 226 of the Constitution of India when there is a clear dispute of fact, Mr Khandeparkar on instructions seeks leave to withdraw the writ petition with liberty to file appropriate proceedings before appropriate forum including bringing a suit in a competent Civil Court.

2. The writ petition is dismissed as withdrawn with liberty as prayed.

3. Since our attention is invited to conflicting versions on facts, particularly with regard to the dilapidated condition of the building known as Juhu Cooperative Housing Society situate at Plots Nos. 20 to 23, Relief Road, Daulatrao Desai Nagar, Santacruz (West), Mumbai 400 054 in H/West Ward, we continue the order passed by this Court on 18th December 2017 in this petition for a period of four weeks from today so as to enable the petitioners to adopt appropriate proceedings.

4. In view of this, the Chamber Summons does not survive and is disposed of as infructuous.

(G. S. PATEL, J)

(S.C. DHARMADHIKARI, J)