

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 94 OF 2014**

Henrietta Derrick Vaz ...Petitioner
Versus
Mumbai Municipal Corporation & Anr ...Respondents

**WITH
WRIT PETITION NO. 1978 OF 2014**

Andrew Monteiro ...Petitioner
Versus
The State of Maharashtra & Ors ...Respondents

**WITH
CONTEMPT PETITION (ST) NO. 47 OF 2015
IN**

WRIT PETITION NO. 94 OF 2014

Municipal Corporation of Greater Mumbai & Anr ...Petitioners
Versus
Henrietta Derrick Vaz ...Respondent

**WITH
NOTICE OF MOTION (L) NO. 630 OF 2015
IN
CONTEMPT PETITION (L) NO. 47 OF 2015
IN
WRIT PETITION NO. 94 OF 2014**

AND
SHOW CAUSE NOTICE NO. 132 OF 2018
IN
CONTEMPT PETITION (L) NO. 47 OF 2015
IN
WRIT PETITION NO. 94 OF 2014

Mumbai Municipal Corporation & Anr	...Petitioner
<i>Versus</i>	
Henrietta Derrick Vaz	...Respondents

Mr Pradeep J Thorat, *for the Petitioner in WP/94/2014; for Respondent No. 6 in WP/1978/2014 & for Respondent/Contemnor in CONPWL/47/2015.*
Ms Vandana Mahadik, *for the MCGM in all the matters.*
Mr RJ Mane, *AGP, for the State.*
Mr Hitesh Vyas, *with Rahul Motkari, I/b Archana Khan, for the Intervenor in WP/94/2014 and Petitioner in WP/1978/2014.*

**CORAM: S. C. DHARMADHIKARI &
G.S. PATEL, JJ**
DATED: 26th June 2019

PC:-

1. After this petition was argued for some time and we see no purpose in retaining the same on our file, Mr Thorat seeks liberty to approach the Municipal Corporation and seek appropriate permissions and approvals.

2. Mr Thorat says that all that the petitioner was intending or rather doing at site was to repair the roof. However, the Municipal Corporation invoked Section 354-A of the Mumbai Municipal Corporations Act 1888 and made a hole in that very roof, resulting in the petitioner being neither able to repair or cover the open roof or the portion thereof nor adopting the course suggested or advised to her previously.

3. Added to that, we find that this Court has passed an interim order which directs all parties to the proceedings to maintain status quo. The status quo at site means the structure with the hole in its roof remains there unrepaired and unattended, except being temporarily covered during the monsoon.

4. In such an unholy state of affairs and when we are not inclined to interfere in our writ jurisdiction, Mr Thorat seeks leave to withdraw this writ petition with liberty to approach the Municipal Corporation with documentary proof, which would enable him to obtain permission so as to either to repair the original structure (i.e., to return it to its original form with only necessary and

permissible repairs such as replacing roofing tiles) or to remove the existing roof altogether and erect a new roof with modern technology. We make no comment nor do we express any opinion about the intended actions or applications of the petitioner. All that we say is that if the Petitioner approaches the Municipal Corporation, the Corporation will decide the petitioner's application strictly in accordance with law. It will pass appropriate orders and directions on merits.

5. To enable the petitioner to make such an application, we direct that the order of status quo as passed by this Court on the initial date will continue for a period of four weeks from today, beyond which the Municipal Corporation is not obliged to wait to take necessary action in accordance with law.

6. All the writ petitions are disposed of accordingly.

7. In the light of the order that we have passed on the main proceedings, we do not deem it fit to pursue the contempt petition.

8. The contempt petition is also disposed of.
9. In view of this, all the interim applications does not survive and are disposed of.

(S. C. DHARMADHIKARI, J)

(G. S. PATEL, J)