

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

WRIT PETITION NO.2150 OF 2016

Smt. Vimal Pratap @ Babboo Mehra
& Another

.... Petitioners

Vs.

The Bombay Municipal Corporation
& Others

.... Respondents

None present for the Petitioners.

Ms Vandana Mahadik for the Respondent/BMC.

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

DATE : JULY 09, 2019

P.C:

1. The petitioners and their Advocate both are absent, though their names are correctly displayed on the board.

2. In the matters that are listed for direction today, the common thread is that the Municipal Corporation has issued notices under Section 354 of the Mumbai Municipal Corporation Act, 1888 but the notices could not be enforced and executed on

account of pendency of litigation and because of interim orders passed by this Court.

3. The Municipal Corporation in a batch of petitions moved before us on the previous date brought to our notice that it is not just one or two petitions but number of matters raising identical grievances and pending in this Court. The result of the interim orders is that none of the notices could be enforced and the structures could not be pulled down although they are dangerous or in a ruinous condition. Some of the structures have partially collapsed even after the interim orders and during the pendency of the petitions, rendering the municipal officials helpless. This petition is one such matter.

4. This Court has opined in one of the matters that there are conflicting views/opinions expressed by Structural Engineers/Auditors with regard to the structural stability of the building and that is how matters remain pending before this Court. In this case as well, the notice could not be enforced.

5. The notice could not be enforced also because there

was a pending Civil Suit.

6. Thus the Civil Court's protection and this Court's added protection resulted in the petitioners residing in the very structure, identified as dilapidated, old and in a ruinous condition. Therefore, the petitioners' Advocate or the petitioners should have remained present to argue the case. In their absence, we forthwith vacate the interim order passed in this petition. The petition is also dismissed.

(G.S. PATEL, J.)

(S.C. DHARMADHIKARI, J.)