

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 2038 OF 2019**

Vishnu Dhondopant Deo

...Petitioner

Versus

Deep Ramesh Kumar Malhotra & Ors

...Respondents

Mr Ulhas D Chemburkar, *i/b DC Pathak, for the Petitioner.*
Ms Vandana Mahadik, *for MCGM.*
Mr RK Ghatge, *Sub-Engineer, M/Ward, present.*
Mr Atul Jadhav, *Assistant Engineer (B & F), M/Ward, present.*
Ms Deepa Pohuja, *with Ms Sheetal Raghani, for Respondent No. 1.*

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

DATED: 16th August 2019

PC:-

1. After having heard both sides and finding that there is no legal infirmity much less perversity brought to our notice while challenging the action of the Municipal Corporation of Greater Mumbai, we have no alternative but to dismiss the writ petition. The petition cannot continue on our file only because the petitioner is not satisfied with the offer made by the landlord. The owner/landlord may not guarantee the petitioner a permanent alternate accommodation at the very site but on the own showing of the petitioner there is a suit filed being RAE Suit No. 1444 of 2011 against the petitioner for eviction and possession in the Court of

Small Causes at Mumbai. If this suit was indeed filed but came to be dismissed on 1st September 2015 and still the petitioner is aggrieved at not having been offered any accommodation by the 1st respondent, then, sub-section (5) of section 354 of the Mumbai Municipal Corporation Act 1888, the general law, as also the rent control legislation can all be invoked for protecting every single right and interest of the petitioner in the immovable property.

2. We cannot allow the Municipal Corporation to remain a mute spectator in this dispute and to not perform its statutory obligation and duty. It must perform this duty once a survey has been carried out in the city and its suburbs of old and dilapidated buildings. If such old dilapidated buildings are found to be dangerous for human occupation, in a ruinous state and likely to fall, and are not proceeded against, it is the general public's interest which suffers, for such a building may collapse on innocent passers by and those in the neighbourhood.

3. The opinion or subjective satisfaction of the Municipal Authorities about the state of the building does not suffer from any perversity or mala fides calling our interference in the writ jurisdiction.

4. For the above reasons, we do not find any merit in the writ petition. The writ petition is dismissed.

(G. S. PATEL, J)

(S. C. DHARMADHIKARI, J)