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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (Lodging) No. 2781 OF 2019

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Karuna Pandit & Ors.

..Petitioners.

Vs

The Municipal Corporation of
Gr. Mumbai & Ors

..Respondents.

Mr. Rajmani Verma & Mr Nikhil Verma and Ms Shivani Shukla i/b
Navdeep Vora Associates for the Petitioners.

Mr. N.V. Walwalkar, Senior advocate a/with Ms. Rupali Adhate for
Respondent MCGM.

Mr. Mayur Khandeparkar and Mr. Vikhil Dhoka i/by G.M. Legal for
Respondent Nos. 3 and 4.

**CORAM : AKIL KURESHI &
B. P. COLABAWALLA, J.**

DATED :- 7th NOVEMBER, 2019.

P.C. :-

1. The petitioners and who are five in number have
challenged the action initiated by the authorities of the Municipal
Corporation of Greater Mumbai to order an eviction and demolition
of a building known as “Bharat Bhavan” situated at K.D.Road, Vile

Parle (W) Mumbai 400 056. The petitioners have also challenged the letter dated 21st September, 2019 and the notice issued under Section 354 of the Mumbai Municipal Corporation Act, 1888 (for short “MMC Act”) dated 24th September, 2019.

2. The petitioners in this petition are five individuals who are the occupants of flat No.1, flat No.5, flat No.7, flat No.9 and flat No.6 respectively, of the said building “Bharat Bhavan”. The grounds of challenge in this petition to the letter dated 21st September, 2019 and the notice issued under Section 354 of the MMC Act dated 24th September, 2019 are identical to the grounds raised by another petitioner in Writ Petition (L) No. 3137 of 2019. The said Writ Petition was disposed of by us vide our order dated 7th November, 2019, wherein after analyzing the material placed on record, we found no reason to interfere and held that the Writ Petition was liable to be dismissed. For the reasons stated in the said order dated 7th November, 2019 passed in Writ Petition (L) No. 3137 of 2019, even this Writ Petition is liable to be dismissed.

3. At this stage, the learned Counsel for the petitioners submitted that the Corporation is threatening immediate eviction,

failing which electricity and water supply would be disconnected. He, therefore, requested for some reasonable time to enable the aforesaid five petitioners to vacate their respective premises.

4. The learned Counsel for the petitioners further stated, on instructions, that each of the petitioners shall file an undertaking before this Court within a period of one week from today that within the time permitted by the Court, the premises in occupation of each of the petitioners shall be vacated by them. He further stated that each of the petitioners shall give an undertaking that the occupation of their respective premises for the period permitted by the Court would be at the sole risk and consequences of the petitioners and the landlord or the Municipal Corporation, shall not be held responsible for any damage whatsoever on account of such occupation. The learned counsel further stated that the petitioners are accepting this order and will not challenge the same before a higher Court in the event the Court is inclined to grant a reasonable time to the petitioners for vacating their respective premises.

5. We have considered the request made on behalf of the petitioners. Purely on humanitarian grounds, we pass the following

order :-

(i) The petitioners herein are granted a period of two weeks to vacate their respective premises. Consequently, for the aforesaid period of two weeks, the electricity and water supply to their respective premises shall not be discontinued, and if already discontinued, the same shall be restored forthwith;

(ii) Each of the petitioners shall file an undertaking before this Court within a period of one week from today that within the time permitted earlier, the petitioners shall vacate their respective premises;

(iii) The undertaking shall also state that the occupation of the premises for the aforesaid period of two weeks would be entirely at the risk and consequences of the petitioners and the landlord or the Municipal Corporation shall not be responsible for any damage whatsoever on account of such occupation. The undertaking shall further state that in lieu of the time granted to vacate the premises, the petitioners are accepting this order and do not wish to challenge the same before a Higher Court.

6. Needless to clarify that if the aforesaid undertakings are

not filed within a period of one week from today, the limited protection granted under this order shall cease with immediate effect and the Municipal Authorities shall then be free to evict the petitioners and demolish the building forthwith.

7 It is further made clear that the limited protection granted in this order shall enure to the benefit of only the five petitioners in the present Writ Petition and the other tenants/ occupants who have not approached this Court, shall not be entitled to take benefit of this order and the Municipal Authorities shall be free to evict such tenant/ occupants forthwith.

8. The Writ Petition is accordingly disposed of with no order as to costs.

(B. P. COLABAWALLA, J.)

(AKIL KURESHI, J.)