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

WRIT PETITION NO.401 OF 2018

- | | | |
|--|---|----------------|
| 1. Mr.S.N. Bhatia, Shop No.2, |) | |
| |) | |
| 2. Joy Verghis, Shop No.7 |) | |
| |) | |
| 3. Vanaja K.Shetty, Shop No.6, |) | |
| |) | |
| 4. Gulabchand Dhedia, Shop No.8, |) | |
| |) | |
| 5. Shashikala S.Poojari, Transferee |) | |
| Gurudeepkaur Mohindersingh Arora |) | |
| Transferor, Shop No.3, |) | |
| |) | |
| 6. Mahendrakumar Lamba and |) | |
| Maheshkumar Lamba, Shop No.5, |) | |
| |) | |
| 7. Subhashchandra Gupta, Shop No.10 |) | |
| (Since deceased) through His Legal Heirs |) | |
| Smt.Santra Subhash Gupta |) | |
| |) | |
| 8. Manju Agarwal, Shop No.4, |) | |
| |) | |
| 9. Ajay Agarwal, Shop No.9, |) | |
| |) | |
| 10. Neelam Ramji Julka, Shop No.1, |) | |
| All of Ramgadh Building, Rawli Camp, |) | |
| Koliwada, Sion, Mumbai – 400 037 |) | ...Petitioners |

....Versus....

- | | |
|--|---|
| 1. The Commissioner, |) |
| Municipal Corporation of Greater Mumbai, |) |
| having office at Mahapalika Marg, |) |
| Fort, Mumbai – 400 001 |) |
| |) |
| 2. The Assistant Commissioner (Market), |) |

Municipal Corporation of Greater Mumbai,)
F-North Ward, 1st Floor,)
Mahatma Jyotiba Phule Market,)
Dr.D.N.Road, Mumbai – 400 001) ...Respondents

Mr.Mayur Khandeparkar with Mr.Heramb Kadam and Mr.Abhishek Matkar I/b Mr.Himanshu Kode for the Petitioners.

Mr.Joaquim Reis, Senior Counsel with Ms.Dhruti Kapadia and Ms.Sheetal Metakari I/b Mr.Jernold Joseph Xavier for the Respondent Nos.1 and 2.

CORAM : R.D. DHANUKA, J.
RESERVED ON : 28TH JUNE, 2019
PRONOUNCED ON : 11TH JULY, 2019

JUDGMENT :-

1. By this petition filed under Article 226 of the Constitution of India, the petitioners have impugned the orders dated 27th October, 2017 passed by the Assistant Commissioner (Market), Municipal Corporation, Greater Mumbai, F/North Ward, Mumbai thereby informing each of the petitioner that the Assistant Commissioner, F/North Ward had forwarded a proposal to grant each of the petitioners temporary alternate premises in lieu of the structure affected in the dilapidated building known as “Ramgadh Building, Rawli Camp, Koliwada, Sion in F/North Ward. The Assistant Commissioner (W.S.) accorded sanction dated 26th September, 2017 to grant temporary alternate premises to each of the petitioners on payment of necessary charges. The petitioners were informed about the temporary alternate premises subject to payment of requisite charges towards the temporary alternate premises within 15 days from the date of receipt of the said letter. Some of the relevant facts for the purpose of deciding this petition are as under :

2. The petitioners are claiming to be the tenants of the Municipal Corporation of Greater Mumbai in respect of their respective shops situated in "Ramgadh Building", Rawli Camp, Koliwada, Sion, F/North Ward within the limits of the Municipal Corporation of Greater Mumbai. It is the case of the petitioners that these shops are existing since the year 1970. The petitioners claimed to be in peaceful use, occupation and possession of their respective shops and have been carrying on various businesses in the said shops.

3. The said "Ramgadh Building" consisting of 32 residential and 10 commercial premises. The said building was consisting of ground plus four floors initially when it was constructed. Some time in the month of June, 2017, the Assistant Commissioner (Estates 2) F/North Ward had issued a notice to the petitioners for shifting to an alternate place so that they could carry out the work of demolition of only upper floor i.e. 1st to 4th floor. It is the case of the petitioners that all the petitioners accordingly vacated their respective shops and shifted to some alternate place during the period of demolition of the upper floors i.e. 1st to 4th floor which were occupied by the employees of the Municipal Corporation of Greater Mumbai. After demolition of 1st to 4th floor, all the petitioners resumed possession of their respective shops on or before 15th August, 2017 and since then they are in use, occupation and possession of their respect of the shop premises and are conducting their businesses. As on today, only the ground floor structure is in existence comprising of 10 shops.

4. It is the case of the petitioners that the petitioners have carried out repairs and renovation recently to those 10 shops and

existing components are in good condition without any major cracks. The petitioners have obtained Structural Stability Audit Report (SSAR) conducted by the Structural Consultant M/s.MF Associates dated 3rd November, 2017 certifying that the ground floor structures are not in dilapidated condition.

5. On 27th October, 2017, the respondents informed the petitioner about the temporary alternate premises offered to each of the petitioners and directed to deposit a sum of Rs.25,050/- within 15 days from the date of the said letter / order. It is the case of the petitioners that the temporary alternate premises offered to the petitioners at Kanjurmarg is at the distance of more than 15 K.M. from the present location of the shops of the petitioners and is in deserted area. The petitioners have been granted licences by various authorities for carrying on various businesses in their respective shops. Being aggrieved by the said letters / orders dated 27th October, 2017 issued by the respondent no.2, the petitioners have filed this writ petition under Article 226 of the Constitution of India.

6. Mr.Khandeparkar, learned counsel appearing for the petitioners invited my attention to various annexures to the writ petition and submits that the petitioners are admittedly the tenants of the Municipal Corporation of Greater Mumbai in respect of their respective shops situated on the ground floor of the said "Ramgadh Building", Rawli Camp, Koliwada, Sion in F/North Ward, Mumbai. He submits that the tenements on the upper floors i.e. 1st to 4th floor in the said building were allotted by the Municipal Corporation to their employees who have been already shifted. It is submitted that the petitioners were asked to shift temporarily when the upper 1st to 4th

floors of the said building were sought to be demolished by the respondents by a notice dated 2nd June, 2017. The petitioners have admittedly resumed possession of their respective shops after demolition of the upper floors by the respondents in the month of August, 2017 and since then once again are in peaceful use, occupation and possession of their respective shop premises. He submits that the petitioners have already carried out requisite repairs or renovation in their respective shops and those shops are not in dilapidated condition.

7. It is submitted by the learned counsel for the petitioners that neither any notice under section 354 of the Mumbai Municipal Corporation Act, 1888 (MMC Act) is issued to any of the petitioners nor any IOD is issued for the purpose of demolition of the suit structures. The petitioners thus could not have been called upon to vacate the possession of their respective shops and to shift to the temporary alternate premises and then also which is 15 K.M. away from the location of the suit shops. He submits that the petitioners have been carrying on their business in their respective shop premises for last several years and thus it would not be possible to shift the running business to the temporary alternate premises offered by the respondents in remote area i.e. 15 K.M. away from the location of the suit shops.

8. It is submitted that there is no proposal for redevelopment of the building of the respondents as on today in which the suit shops are situated. The entire ground floor of the earlier building is admittedly used for commercial purposes. There is no standing committee resolution passed for redevelopment of the property in

question. Without prejudice to their rights and contentions, the petitioners are ready and willing to vacate their suit premises and to shift to the temporary alternate premises in the same vicinity if any proposal for redevelopment is sanctioned by the standing committee of the Municipal Corporation in accordance with law. As on today, there is no urgent need of the respondent to shift the petitioners to the temporary alternate premises.

9. Learned counsel for the petitioners placed reliance on the notices dated 2nd June, 2017 issued by the respondents calling upon the petitioners to shift their respective shop premises along with their articles at their own risks till demolition of 1st to 4th floors of the suit building was carried out. He submits that the said notice was admittedly issued for the purpose of demolishing the 1st to 4th floors of the said building and thus no sooner demolition of those 4th upper floor was carried out by the respondents, the petitioners remained in possession of their respective shops. The upper 4th floors were demolished on 26th June, 2017. Learned counsel for the petitioners strongly placed reliance on some of the photographs at Exhibit "B" collectively and would submit that those photographs of those 10 shops would clearly indicate that the same are not in dilapidated condition and thus are not required to be demolished. Learned counsel for the petitioners submits that the respondents thus could not have issued any notice to shift the petitioners on 27th October, 2017.

10. Learned counsel for the petitioners invited my attention to the contentions raised by the respondents in paragraphs 5 and 6 of the affidavit in reply dated 18th December, 2017 and submits that the

said report obtained by the respondents was without carrying out N.D. test as contemplated in the judgment of this Court delivered on 23rd June, 2014 in Writ Petition (Lodging) No.1135 of 2014 filed by the **Municipal Corporation of Greater Bombay vs. State of Maharashtra & Others**. He strongly placed reliance on paragraphs 9(a), (d-ii), (f), (h), (l) and (m) of the said judgment and would submit that since the respondents had not issued any notice under section 354 of the MMC Act and had not carried out N.D. test as directed by this Court in the said judgment, the said Technical Advisory Committee Report cannot be relied upon by the respondents.

11. It is submitted that only when a notice under section 354 of the MMC Act would have been issued by the respondents, the respondents could have obtained the said Technical Advisory Committee Report as contemplated by the judgment of the Division Bench of this Court in case of **Municipal Corporation of Greater Bombay** (supra). There is no IOD issued by the respondents for carrying out any demolition of the ground plus upper floor structures. The notice to evict thus could not have been issued by the respondents. The petitioners cannot be deprived of their right to challenge the notice contemplated under section 354 of the MMC Act.

12. It is submitted by the learned counsel that the tenancy rights of the petitioners are not in dispute. The petitioners are ready and willing to vacate and submit an undertaking that they would vacate as and when the respondents obtain the permission for redevelopment and issue an IOD after obtaining the Standing Committee Resolution in that regard. It is submitted that some of the

petitioners have obtained various licenses. One of the petitioner is running a restaurant in one of the shop and obtained various licenses for running such restaurant. If the said petitioner is required to shift to another premises, he will have to obtain various licenses again.

13. It is submitted by the learned counsel that recently the petitioners have come across a Standing Committee resolution of the Municipal Corporation to redevelop the buildings in the same vicinity known as Manjarekar Market for commercial premises. The petitioners can be accommodated in the said proposed building and these shops can be treated as temporary accommodation transit till the said structures of Manjarekar Market are constructed.

14. Mr.Joaquim Reis, learned senior counsel for the respondents submits that the said "Ramgadh Building" was comprising of ground plus 4th upper floors. He submits that the respondents had issued a notice to their employees who were occupying the upper floors and also the petitioners for vacating all 32 residential units and 10 shops on 2nd June, 2017 on the ground that the entire building was in dangerous condition and fell in C-1 grade. By the said notice dated 2nd June, 2017 issued to the petitioners, the petitioners were informed that the occupants of the 1st to 4th floors had already vacated. The proposal for alternate premises for the ground floor non-residential units had been submitted before the Assistant Commissioner (Market) and till date alternate non-residential units had not been obtained. After obtaining non-residential units from the Assistant Commissioner (Market), the petitioners would be informed about the same immediately.

15. By the said notice, the petitioners were instructed to shift from their respective ground floor shops along with their articles at their own risks till the demolition of 1st to 4th floor of the suit building was carried out so as to avoid any loss of life, financial loss etc. It is submitted by the learned senior counsel that admittedly the petitioners shifted to alternate premises at their own risk and did not challenge the said notice dated 2nd June, 2017.

16. It is submitted by the learned senior counsel that the respondents have now obtained temporary alternate premises duly sanctioned by the Additional Municipal Commissioner (W.S.) on payment of necessary charges admeasuring 334 sq. ft. in CTS no.1196/B off village Kanjurmarg, near Parivar Society, Kanjurmarg in "S" ward required to be paid by the petitioners. It is submitted that the said notice dated 27th October, 2017 is in furtherance of the notice dated 2nd June, 2017 by which the petitioners were called upon to shift in view of the said entire building being in dilapidated condition and was falling in C-1 category. The petitioners thus cannot now refuse to vacate their respective shop premises and to shift to a temporary alternate premises offered to the petitioners. He submits that in view of the petitioners not vacating the suit shops, the respondents are unable to carry out any construction and to put the employees of the respondents in possession who were occupying upper 4 floors.

17. Learned senior counsel placed reliance on Technical Advisory Committee Report dated 4th August, 2015 annexed to the affidavit in reply. The said meeting of the Technical Advisory Committee was held on 20th August, 2015. Mr.B.M. Farooque,

Consultant representing M/s.F.M. Associates, whose report has been obtained by the petitioners was also present. The Technical Advisory Committee members visited the site on 7th August, 2015. In the said report, it was observed that since both the Consultants i.e. M/s.S.P. Bagve on behalf of the Municipal Corporation and M/s.F.M. Associates on behalf of the opponents had submitted their report after conducting necessary N.D. test, the Technical Advisory Committee did not think it necessary to conduct the N.D. Test separately. The Technical Advisory Committee came to the conclusion that even though the structural reports are considered, the same are not techno economically viable, due to high repair cost which would amount to reconstruction cost. The building under reference was not fit for human habitation and thus the structure needs to be vacated and demolished immediately by following due process of law.

18. It is submitted by the learned senior counsel for the respondents that the Municipal Corporation accepted the report of the Technical Advisory Committee on 10th September, 2015. Learned senior counsel invited my attention to some of the averments made in the additional affidavit filed by the respondents in Notice of Motion No.23 of 2019. It is averred that as per the revised Development Plan - 2034 of F/North ward, the said plot under reference bearing No.290 C.C.S. No.11(part) is designed for Municipal Staff Quarters + Municipal Housing and Police Chowky. The land is required to be used for the said purposes. It is stated in the said affidavit that once the building under reference is demolished, the respondents intend to develop the entire plot to the full potential as per the development plan reserved for Municipal

Staff Quarters to accommodate mainly the Municipal Sion Hospital staff and other key staff to whom the accommodation is required to be provided in city area.

19. Learned senior counsel placed reliance on “Guideline for reconstruction redevelopment of old and dilapidated Municipal tenanted building” under No.AC/ Estates/21825/EE/Estates dated 30th December, 2017 which are applicable to C-1 and C-2 category Municipal tenanted buildings. He submits that under the said policy, the respondents can shift eligible tenants by allotting permanent alternate accommodation / premises as per the policy circulars. After demolishing the building, the said plot will be utilized by the Corporation for the public purpose and for development shown in the revised development plan.

20. Learned senior counsel placed reliance on the policy dated 25th May, 2018 framed in accordance with the order passed by this Court in Writ Petition No.1135 of 2014 and 1080 of 2015. He submits that under clause 2.11 of the said policy, it is clearly provided that if the building is declared as C-1 category, eviction order is served, alternate accommodation is provided and if occupant refuse to vacate the premises, then in case of the occupier being a Municipal tenant his / her tenancy agreement shall be terminated and he shall be immediately evicted.

21. Learned senior counsel placed reliance on clause 6(1)(e) of the policy dated 30th December, 2017 and submits that under the said policy the respondents can accommodate the petitioners anywhere in Greater Mumbai where there is space available. The

petitioners have been already offered temporary alternate accommodation at Kanjurmarg area which the petitioners have refused to accept. He submits that since the petitioners have refused to accept temporary alternate accommodation / premises offered to the petitioners by the respondents under the policy dated 18th December, 2017, the petitioners can choose any of the available commercial premises at the MCGM's markets. If so chosen location has higher stamp duty ready reckoner rate then the area to be allotted would be reduced proportionately.

22. Learned senior counsel placed reliance on the circular dated 6th February, 2019 providing that the respondents are presently facing acute shortage of the commercial spaces for the purpose of offering alternate accommodation to the eligible project affected persons. The proposal for offering "Monetary Compensation" instead of granting commercial alternate accommodation to commercial affected person by various public purpose projects of the respondents is approved by the Standing Committee vide resolution no.668 dated 9th February, 2017 and by the Corporation vide resolution dated 9th October, 2018. It is submitted that the petitioners thus can avail of monetary compensation under the said circular dated 6th February, 2019 in lieu of permanent alternate accommodation which would be at the rate of 100% stamp duty ready reckoner rate of the area, which offer letter is proposed to be issued to the petitioners in accordance with the circular dated 6th February, 2019.

23. Insofar fas the submission of Mr.Khandeparkar, learned counsel for the petitioners that since no notice under section 354 of

the MMC Act was issued or no IOD was issued and thus the petitioners could not have been asked to shift to the temporary alternate accommodation is concerned, learned senior counsel invited my attention to paragraph 9(h) of the judgment delivered by this Court on 23rd June, 2014 **Municipal Corporation of Greater Bombay** (supra) thereby framing various guidelines. He submits that since the building in question is the municipal owned building, the Corporation has to issue letter of evacuation to the person in occupation of the said building or part thereof to vacate the said building along with their belongings within a period of seven days from the date of issuance of such letter of evacuation.

24. It is submitted that in paragraph 9(i) of the said order, it is clearly provided that in the event of such person occupying the building owned by the Corporation refusing to vacate such premises, then the police shall remove such person from the said premises by using nominal force if required for the same without causing danger to their movables. It is submitted that the respondents were thus not required to issue any notice under section 354 of the MMC Act to the petitioners or to issue any IOD before demolition of the said shops.

25. Learned senior counsel placed reliance on the judgment of this Court in case of **Bharat Choksey & Ors. vs. Life Insurance Corporation of India & Ors.** delivered on 24th July, 2015 in Writ Petition No.136 of 2006 and in particular paragraphs 27 and 28. He submits that the Corporation cannot be forced to issue any IOD immediately. Learned senior counsel for the respondents placed reliance on the judgment of this Court in case of **Dinoo Baji Todiwalla & Ors. vs. State of Maharashtra & Ors. 2011(1) Mh.L.J.**

974 and in particular paragraph 15 and would submit that since there are no allegations of any *malafides* and the building in question being dilapidated and forming in C-1 category, this Court cannot sit in the judgment over a decision of the authority and to decide for itself whether the building is in fact in ruinous condition or not.

26. Learned senior counsel for the respondents placed reliance on an unreported judgment delivered on 21st August, 2018 by this Court in case of **Pravinchandra Meghji Nisar & Ors. vs. Municipal Corporation of Greater Mumbai & Ors.** in Appeal from Order (Stamp) No.23630 of 2018 and in particular paragraphs 9 and 10 and submits that since the Technical Advisory Committee is an independent expert committee which is appointed as per the directions given by this Court in Civil Writ Petition No.1135 of 2014, the Court cannot sit over the said report and take any different view in the matter.

27. Mr.Khandeparkar, learned counsel for the petitioners in rejoinder submits that admittedly the petitioners have resumed after demolition of the upper floors in the said building and since then they are in exclusive possession of the respective suit shops. He reiterated his submission that demolition of the suit shops, if any, can be carried out only after notice under section 354 of the MMC Act is issued or after issuance of IOD. He submits that even under the new policies framed by the respondents, issuance of notice under section 354 of the MMC Act is mandatory before asking the occupants to vacate the dilapidated buildings.

REASONS AND CONCLUSION :

28. There is no dispute that the petitioners were issued notices by the respondents on 2nd June, 2017 informing that the entire building was in dangerous condition and falling in C-1 category and was required to be demolished. The petitioners were also informed that the occupants of the first to fourth floor had already vacated. The proposal of the temporary alternate accommodation in the suit shops had been submitted to the Assistant Commissioner (Market) and till then the temporary alternate accommodation for the commercial premises had not been obtained. The petitioners were informed that after obtaining the sanction for temporary alternate accommodation for the suit shops from the Assistant Commissioner (Market), the petitioners would be informed about the same immediately. It is not in dispute that the petitioners accordingly shifted to another premises arranged by them till upper floors were demolished by the respondents. There is no dispute that the petitioners did not challenge the said evacuation notice dated 2nd June, 2017 issued by the respondents at any point of time.

29. There is no dispute that by a separate notice dated 27th October, 2017, each of the petitioners had been informed about the allotment of temporary alternate accommodation admeasuring 334 sq. ft. in CTS no.1196/B off village Kanjurmarg, near Parivar Society, Kanjurmarg in "S" ward on payment of requisite charges. The petitioners thus cannot refuse to shift to the temporary alternate accommodation offered by the respondents in furtherance of the notice dated 2nd June, 2017 which have not been admittedly impugned by the petitioners. The petitioners could not be offered temporary alternate accommodation on the date of issuance of the said notice dated 2nd June, 2017 as the same were not obtained from

the department of the Assistant Commissioner (Market). The petitioners were clearly informed about this position. The petitioners were accordingly allowed to occupy the suit shops till temporary alternate accommodation arrangement was made and sanctioned by the Additional Municipal Commissioner (W.S.). The said sanction has been already accorded by the Additional Municipal Commissioner (W.S.) on 26th September, 2017.

30. Insofar as the submission of Mr.Khandeparkar, learned counsel for the petitioners that unless a notice under section 354 of the MMC Act or IOD was first issued by the respondents, the petitioners could not have been asked to shift to the temporary alternate accommodation is concerned, it is not in dispute that the suit shops are owned by the Municipal Corporation. In the guidelines framed by this Court in the judgment in case of **Municipal Corporation of Greater Bombay** (supra), it was made clear that the said guidelines would apply in respect of those buildings which were highly dilapidated and dangerous and/or classified in C-1 category whether owned by a private party or the Corporation or any other authority in respect of which building either a notice under section 354 of the MMC Act has been issued or the Corporation or has issued a letter of evacuation to their tenants and/or occupants of the building. It was clearly mentioned in paragraph 9(h) of the said judgment that in case of the municipal owned buildings, the Corporation will issue letter of evacuation to every person in occupation of the said building or part thereof to vacate the said building along with their belongings within the said period of seven days from the date of issuance of such notice/letter of evacuation. It is further provided that in the event such persons occupying the

tenement owned by the Municipal Corporation refused to vacate the said premises, then the police shall remove such persons from the said premises if required.

31. In my view, there is thus no substance in the submission of Mr.Khandeparkar, learned counsel for the petitioners that unless a notice under section 354 of the MMC Act or IOD would have been first issued, the petitioners could not have been asked to vacate the suit shops and to shift to temporary alternate accommodation. A perusal of the prayers in the writ petition clearly indicates that the petitioners have not impugned the notices dated 2nd June, 2017 declaring the suit shops as C-1 category and asking the petitioners to vacate the suit premises till upper floors were demolished. It was also clearly stated that till date temporary alternate accommodation insofar as the suit shops were concerned, were not obtained and no sooner the same would be obtained, the petitioners would be informed about the same immediately. In my view the notice dated 27th October, 2017 issued to the petitioners being in continuation and in furtherance of the notice dated 2nd June, 2017, the petitioners cannot refuse to shift to temporary alternate accommodation offered by the respondents.

32. Insofar as the submission of Mr.Khandeparkar, learned counsel for the petitioners that temporary alternate accommodation offered by the respondents is not within the same vicinity and is about 15 K.M. away from the location of the suit shops or that the petitioners would be seriously prejudiced by shifting their existing businesses to temporary alternate accommodation is concerned, the petitioners cannot refuse to vacate the premises on these grounds. A

perusal of record clearly indicates that the occupants of the 1st to 4th floors who were the employees of the respondents have already vacated. The Technical Advisory Committee's Report which was submitted after considering the N.D. test report submitted by the Structural Engineer & Consultant appointed by the petitioners and the report obtained by the respondents have opined that the entire building was in dilapidated condition and was required to be demolished. The petitioners thus cannot be allowed to now contend that after demolition of the first upper floors, ground floor structures are not in dilapidated condition. The order of the Municipal Commissioner declaring the entire building in dilapidated condition and fallen in C-1 category has not been impugned by the petitioners. The tenancy rights of the petitioners in the suit shops have not been disputed by the respondents.

33. Insofar as the submission of the learned counsel for the petitioners that the report of the Technical Advisory Committee cannot be considered by this Court since the same was obtained without carrying out N.D. test is concerned, learned counsel for the petitioners could not dispute that the said Technical Advisory Committee had considered the N.D. test carried out by the Consultants of the petitioners themselves. The said Consultant was duly present in the meeting held by the Technical Advisory Committee. His suggestions were also considered by the said Committee in the report.

34. In affidavit in reply filed by the Municipal Corporation in this writ petition and additional reply in the Notice of Motion No.23 of 2019, the respondents have brought on record various policies

framed by the Municipal Corporation in respect of the temporary alternate accommodation in case of municipal owned building. It is also brought on record by the respondents that in the revised Development Plan - 2034 of F/North ward, the entire plot in question is reserved for construction of a building for the Municipal Corporation staff quarters and other public purposes. The respondents have also made the provision for payment of compensation in lieu of permanent alternate accommodation in respect of the commercial premises. In my view, it is for the petitioners to avail of the benefits under any of such policies brought on record by the respondents in the affidavits filed in this writ petition including in the Notice of Motion no.23 of 2019. The petitioners cannot be allowed to refuse to vacate the premises which are required to be demolished in view of the premises having been declared dilapidated i.e. falling in C-1 category on one or other grounds. I do not find any infirmity in the order passed by the respondents asking the petitioners to vacate and to shift to the temporary alternate accommodation. In my view, none of the action taken by the respondents is in violation of the guidelines framed by this Court in the judgment in case of **Municipal Corporation of Greater Bombay** (supra). No case is thus made out by the petitioners for interference in the impugned order passed by the respondents. The petition is devoid of merits. I therefore, pass the following order :-

- a). Writ Petition No.401 of 2018 is dismissed.
- b). The petitioners are directed to vacate and hand over the suit shops which are subject matter of the impugned orders within

two weeks from today, without fail.

c). The petitioners would be at liberty to avail off the benefit of the existing policies issued by the Municipal Corporation of Greater Mumbai set out in the affidavits filed in the aforesaid proceedings applicable to the shop premises in question.

d) In the event of the petitioners not vacating the suit shops within the time prescribed, the respondents would be at liberty to take the assistance of the police for the purpose of removal of the petitioners and their belongings in compliance with the judgment of this Court in case of **Municipal Corporation of Greater Bombay vs. State of Maharashtra & Others** (supra).

d). Rule is discharged.

e). All the parties as well as the concerned Authorities to act on the authenticated copy of this order.

(R.D. DHANUKA, J.)

35. Mr.Sawant, learned counsel for the petitioners seeks continuation of the *ad-interim* order passed by this Court on 5th December, 2017 which is vehemently opposed by the learned counsel for the Municipal Corporation. In view of the fact that the impugned structures are already declared as dilapidated and are in C-1 category, I am not inclined to continue the *ad-interim* protection granted by this Court. The application for continuation of the *ad-interim* protection is accordingly rejected.

(R.D. DHANUKA, J.)