

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

**WRIT PETITION 151 OF 2015
WITH
CHAMBER SUMMONS No. 106 OF 2019
WITH
CHAMBER SUMMONS No. 176 OF 2019**

Kamla Param Construction Pvt. Ltd. ..Petitioner.
Vs
The Municipal Corporation of
Gr. Mumbai & Anr. ..Respondents.

Mr. Pradeep Thorat, Advocate for the Petitioner.
Dr. Abhinav Chandrachud a/with Mr. Dhaval Mehta i/by D.M.Legal
Assoc. for the Applicants in Chamber Summons No. 176 of 2019.
Ms. Tulsi Dhami for Applicants in Chamber Summons No.106 of
2019.
Mr. R.S. Apte, Senior Counsel a/with Ms. Rupali Adate for
respondent No.1.

**CORAM : AKIL KURESHI &
B. P. COLABAWALLA, J.
DATED :- 7th NOVEMBER, 2019.**

P.C. :-

1. This petition is filed by the petitioner-developer,
challenging the demolition notice issued by the Municipal

Corporation on the ground that certain portions of the building in question do not confirm to the FSI restrictions and the building plans approved. The Chamber Summons is taken out by the Society/occupants of the building who have purchased the residential units from the developer. They request for intervention as well as for permission to apply for regularization of the offending portions of the building. The case of the petitioner as well as the applicants in Chamber Summons is that the major objection of the Corporation that it is in excess within the permissible FSI. However, subsequently, the building Regulations have undergone changes and higher FSI is now permissible. It is therefore possible for the Corporation to regularize the construction upon payment of premium which the members of the society are prepared to do. Shri Apte, the learned Counsel for the Corporation, however, submitted that the petitioner-Developer had made such an application to the Corporation in the year 2013 which was rejected in the year 2015. He does not dispute that the building Regulations have undergone certain changes subsequently.

2. In the facts of the case, the present petition is disposed of with the following directions :-

i) The petitioners shall give no objection to the Society for making application to the Corporation for regularization of the trust within a period of two weeks from today;

(ii) The Society shall make an application for regularization within a period of four weeks from today; and

iii) If such application is made within the time permitted, there shall be no demolition of any part of the building in question till the application for regularization is decided and for a period of two weeks thereafter if it is rejected.

3. The application for regularization shall be decided on its own merits, subject to compliance of original plans and documents.

4. In view of this order, we do not find it necessary to allow Chamber Summons Nos.106 of 2019 and 176 of 2019 filed by the applicants to implead them as the party respondents in the Writ Petition and the same are accordingly disposed of.

(B.P. COLABAWALLA, J.)

(AKIL KURESHI, J.)