

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

WRIT PETITION (L) NO.3297 OF 2019

Pushpa Ganesh Shetty ... Petitioner
versus
The Municipal Corporation of Greater
Mumbai ... Respondent

WITH

WRIT PETITION (L) NO.3298 OF 2019

Muradali Mohamed Istahoor ... Petitioner
versus
The Municipal Corporation of Greater
Mumbai ... Respondent

WITH

WRIT PETITION (L) NO.3299 OF 2019

Pushpa Ganesh Shetty ... Petitioner
versus
The Municipal Corporation of Greater
Mumbai ... Respondent

WITH

WRIT PETITION (L) NO.3300 OF 2019

Deviprasad Nankuram Shrivastava and Ors. ... Petitioners
versus
The Municipal Corporation of Greater
Mumbai ... Respondent

WITH

WRIT PETITION (L) NO.3301 OF 2019

Sulbha Balkrishna Shetty ... Petitioner
versus
The Municipal Corporation of Greater
Mumbai ... Respondent

Mr. V.R.Tripathi, for Petitioner.

Mr. N.R.Bubna with Ms. Yamuna Parekh, for Respondent-MCGM.

Mr. Bose, Jr. Engineer, Maintenance G/S Ward, present.
Mr. Ravi Mhaske, Asstt. Engineer, Maintenance, G/S Ward, present.

**CORAM: S.J. KATHAWALLA &
B.P.COLABAWALLA, JJ.**

DATE: 26th NOVEMBER , 2019

P.C.:

1. The above five Writ Petitions are filed by the occupants of the Tin Sheds at Ranchod Devram Chawl, Pandurang Budhkar Marg, Mumbai – 400 013 seeking a declaration that the demolition of the their structures is in breach of the order dated 7th September, 2018 passed by the City Civil Court, Mumbai and seeking directions against the Respondent – Corporation to reconstruct the demolished structure of the Petitioners ; put them in possession, and not to demolish the same till the Petitioners are put in possession of the suitable permanent accommodation.

2. Three separate suits have been filed by three of the five above Petitioners in the City Civil Court, Mumbai for the following reliefs :

“(a) That it be declared that the Plaintiff is entitled to suitable alternate shop on the ground floor of the Municipal or private property in lieu of the suit premises and till the Plaintiff is given possession of such premises, the Defendant will not enforce their notice dated 27th May, 2019 at Exhibit N to the Plaint;

(b) That it be declared that the impugned notice of the Defendant

dated 27th May, 2019 at Exhibit N to the Plaint is null, void, illegal and bad in law and not enforceable in law.

(c) That the Defendants by themselves and through their agents, servants and representatives be permanently restrained by an order and injunction of this Hon'ble Court from enforcing their notice dated 27th May, 2019 at Exhibit N to the Plaint and demolish the suit premises without providing to the plaintiff a suitable alternate shop premises on the ground floor of Municipal or private property;”

The City Civil Court has in the said suits recorded on 7th September, 2019 the statement of the Officer of the Corporation stating that the Defendant Corporation will not demolish the suit structure till the permanent accommodation is provided to the Plaintiff. The Corporation by its Affidavit dated 25th July, 2018 offered permanent accommodation to the Petitioner by setting out options in Annexure A to the said Affidavit. The learned Advocate appearing for the Petitioners herein has also represented the Plaintiffs in the three suits. The Petitioners have not accepted the said options provided to them by the Corporation. The Corporation has thereafter demolished the structures of the Petitioners herein. In view thereof, the question of this Court directing the Corporation to reconstruct or to allow the Petitioners to reconstruct the tin sheds does not arise. The issue qua the entitlement of ‘suitable’

permanent alternate shops to the Petitioners is also the subject matter before the City Civil Court, Mumbai in Suits filed by three of the above Petitioners.

3. The Advocate for the Petitioners submits that the demolition was in breach of the order passed by the City Civil Court, Mumbai. The Corporation disputes the same. We are not inclined to decide the said issue in exercise of our powers under Article - 226 of the Constitution of India. However, liberty is granted to the Petitioners to take out appropriate contempt proceedings if so advised, which proceedings if taken out shall be decided on merits. The Petitioners shall also be at liberty to move for further reliefs in the pending three suits before the City Civil Court, Mumbai.

4. The above Writ Petitions are accordingly disposed of.

(B.P.COLABAWALLA, J.)

(S.J.KATHAWALLA, J.)