

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.1 OF 2019
IN
WRIT PETITION NO.3278 OF 2019**

Austin Francis D'Souza	...	Applicant
and		
Newlook Constructions Pvt. Ltd. And Anr.	...	Petitioners
versus		
The Municipal Corporation of Greater Mumbai and Ors.	...	Respondents

Mr. L.R.Shukla i/by M.K.Legal Associates, for Applicant.
Mr. Aseem Naphade with Mr. Bharat Shah, for Petitioners.
Ms. Prachi Tatke with Ms. Sheetal Metkari, for Respondent-MCGM.

**CORAM: S.J. KATHAWALLA &
B.P.COLABAWALLA, JJ.**
DATE: 15th JANUARY, 2020

P.C.:

1. On 10th December, 2019 this Court passed the following order :

“1. *By the above Writ Petition, the Petitioners seek the following relief :-*

“(a) *This Hon’ble Court be pleased to issue a writ of Mandamus, or any other writ, order and direction in the nature of Mandamus directing to forthwith remove the said articles lying on site and to hand over the same to the concerned slum dweller and till then to preserve the same in their godown under their control.*”

2. *On 29th August, 2019, the hut of Shri. Austin D’Souza situated in Vitthal Rakhumai Co-operative Housing Society Ltd., Katrak Road, Wadala, Mumbai was demolished. At the time to demolition, he was not present and therefore, demolition had to commence after breaking the lock*

and removing his articles for which a panchanama has been prepared. The articles which were found in his hut are still lying at site. He is also not coming forward to take possession of the rehab premises allotted to him being Flat No.606, Building No.6, Katrak Road, Wadala, Mumbai.

3. In view of the above, the Developer has moved this Court seeking directions to the Corporation to take charge of the said articles and store the same in their godown. The demolition was admittedly carried out at the instance of the developer. The question therefore of directing the Corporation to take charge of the articles as prayed, does not arise. We are informed that the Corporation is also not having any godowns to store such articles. In view thereof, we allow the developer to shift the articles which are set out in the panchanama to flat No.606 in rehab building No.6 under the supervision of SRA authorities and thereafter, lock the flat and handover the keys to the SRA Authorities. The above Writ Petition is disposed off.”

2. The above order is already implemented by the Corporation and the belongings of the Applicant are shifted to the new flat which is allotted to him. The keys of the new flat is with the SRA. The Applicant has now taken out an interim Application in the disposed off Writ Petition, seeking recall of the Order and several other reliefs. The question of granting any reliefs as sought in the interim Application therefore, does not arise, save and except it is clarified that the Applicant is at liberty to take the keys of his flat and occupy the same without prejudice to his rights and contentions in the proceedings filed or to be filed by him, which proceedings shall be

disposed off on its own merits.

3. The Interim Application is accordingly disposed of.

(B.P.COLABAWALLA, J.)

(S.J.KATHAWALLA, J.)