

Atul

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 413 OF 2016
WITH
NOTICE OF MOTION NO. 354 OF 2016
IN
WRIT PETITION NO. 413 OF 2016

Bhupesh Hitalal Vyas & Ors ...Petitioners
Versus
Municipal Corporation of Greater Mumbai & Ors ...Respondents

Mr RR Sharma, for the Petitioners.
Ms Rupali Adhate, for the Respondent-MCGM.
Mr Vikhil Dhoka, with Pradip Bhatt & Ms M Sanghavi, i/b Solicis
Lex, for Respondent No. 5.
Mr Khirish Limje, Sub-Engineer, F/S Ward, B&F, MCGM, is
present.

CORAM: S.C. DHARMADHIKARI &
G.S. PATEL, JJ

DATED: 12th July 2019

PC:-

1. After this writ petition was argued for some time and we were not inclined to grant reliefs in our writ jurisdiction, particularly in the state of the law pronounced and declared in at least three judgments of this Court, Mr Sharma on instructions states that the

petitioners would not press this petition but they be granted four weeks time to vacate the premises/building.

2. It is a building known as Ram Niwas of ground plus two upper floors on a plot of land Survey No. 100 Hissa No. 10, CTS Nos. 818 and 818/1 to 10 of Village Eksar, Pahadi Goregaon, Taluka Borivali in the registration district of Mumbai Suburban. What is material for us that it is situated at Station Road, Goregaon (West), Mumbai 400 104.

3. The complaint of the Municipal Corporation is that there are commercial activities and particularly the business of a lodging house/hotel being carried on from the subject premises. That is also not disputed by the petitioners. The request is to grant four weeks time in the least to vacate the premises.

4. There is also no dispute or issue raised that the respondent No. 5 who is stated to be the owner of the land beneath and the petitioners are claiming to be the owners of the building/structure.

5. Purely to accommodate the petitioners and to shift themselves together with their business, we grant four weeks' time to vacate as prayed by Mr Sharma.

6. However, we are of the opinion that the petitioners should cease to carry on business or use the subject premises as a lodging house/hotel to subserve larger public interest and in the safety of occupants/residents.

7. The building is situated on Station Road, Goregaon (West) which is a busy road. Should it collapse or come down, the innocent passers by or lodgers or boarders at the hotel will be harmed, and the Municipal Corporation will have to face serious legal consequences. Hence, we grant four weeks' time as prayed but on the condition that the petitioners shall stop carrying on activities, particularly the business of a lodging house/hotel from that premises.

8. In addition, the petitioners shall not create any third party rights in the subject premises.

9. The writ petition is disposed of as withdrawn.

10. In view of this, nothing survives in the Notice of Motion and it is disposed of.

(S.C. DHARMADHIKARI, J)

(G. S. PATEL, J)