

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

28 WRIT PETITION NO.8960 OF 2018

1. Sghaukat Ali Mahamadshaki Chudiwale,
Age : 65 years, Occu.: Business,
R/o.: Mochi Galli, Ahmednagar.
2. Mohanmad Kasim Mahanmad Shaki Chudiwale,
Age : 54 years, Occu.: Nil,
R/o.: Mochi Galli, Ahmednagar. ... PETITIONERS

VERSUS

1. The Municipal Corporation Ahmednagar,
Through :
The Municipal Commissioner,
Municipal Corporation Ahmednagar,
Ahmednagar.
2. The City Engineer,
Municipal Corporation Ahmednagar,
Ahmednagar.
3. The Collector, Ahmednagar,
Taluka & District : Ahmednagar.
4. Baban Kasturchand Khandewal,
Age : 50 years, Occu.: Nil,
R/o.: Mochi Galli, Ahmednagar ... RESPONDENTS

...
Advocate for Petitioners : Mr. J. V. Patil h/f Mr. P. R. Katneshwarkar
AGP for Respondent- State: Mr. S. R. Yadav-Lonikar
Advocate for Respondent No.1: Mr. V. S. Bedre h/f
Mr. K. N. Lokhande
Advocate for Respondent No. 4 : Mr. V. P. Latange
...

**CORAM : Z.A. HAQ AND
S. M. GAVHANE, JJ.**

DATE : 02.03.2020

ORAL JUDGMENT :- *(Per Z. A. Haq, J.)*

Heard. **Rule.** Rule made returnable forthwith.

2. By this petition, the petitioners who are undisputedly owners of the building, have prayed for directions to respondent Nos. 1 to 3 to take immediate action for demolition of Municipal House No.2574 i.e. City Survey No. 2754-A and 2755, Mochi Galli, Ahmednagar. According to the petitioners, the house is in dilapidated condition. The Municipal Corporation has issued notice under Section 264 of the Maharashtra Municipal Corporation Act calling upon the petitioners to demolish the house, and stating that failing which in case of any untoward incident, the liability would be of the petitioners, if any. Respondent No.4 is in occupation of the house in question as tenant. According to the petitioners, as

respondent No.4 is not vacating the house, it is not possible for them to demolish the house.

3. After hearing learned advocates for the respective parties, we find that representation made by the petitioner No.1 to the Municipal Corporation on 21st September 2017 pointing out the impediment for demolition of the house as per the notice issued by the Municipal Corporation under Section 264 of the Maharashtra Municipal Corporation Act, is pending with the Municipal Corporation unattended. It is brought to our notice that Section 268 of the Maharashtra Municipal Corporation Act casts an obligation on the Municipal Commissioner to take further steps, if action is not taken as per the notice issued under Section 264 of the Maharashtra Municipal Corporation Act.

4. After considering the facts of the case, in our view, interests of the justice would be subserved by passing the following order :

ORDER

A) The Commissioner, Municipal Corporation, Ahmednagar shall take decision on the representation dated 22nd September 2017 submitted by petitioner No.1, and communicate the decision to the petitioners within two months from today. While taking decision on the representation, the Commissioner, Municipal Corporation, Ahmednagar shall keep in view the provisions of Section 268 of the Maharashtra Municipal Corporation Act.

B) The petitioners and respondent No.4 shall appear before the Commissioner, Municipal Corporation, Ahmednagar on 27th March 2020 and submit their written submissions along with documents they intend to rely, if so advised.

C) Rule is made absolute in the above terms.

D) In the circumstances, the parties to bear their own costs.

(S. M. Gavhane, J.)

(Z. A. Haq, J.)

vsm/-