

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.1737 OF 2019

Sanatkumar Virji Nandu and Anr. ... Petitioners
versus
Municipal Corporation of Gr. Mumbai and Ors. ... Respondents

Mr. Rohan Cama with Mr. Shanay Shah, Mr. Naresh Chheda, Ms. Sakina Electricwala i/by Vikrant Shetty, for Petitioner in WP 1737 of 2019.

Mr. J. Reis, Senior Advocate with Mrs. Sheetal Metkari, Mrs. Vandana Mahadik, for MCGM.

Mr. A.L.Patki, AGP, for Respondent State.

Mr. Shyam Kapadia with Mr. Abdullah Qureshi, Ms. Risha Shah i/by India Law LLP, for Respondent No.5.

Mr. Manoj Bhatia, for Respondent No.6.

Mr. Rajeev Mannadiar, Liquidator present.

Mr. Santosh Raut, Sr. Police Inspector, Kamla Special Investigation Team.

Ms. Sangeeta Kadam, Police Sub Inspector, present.

**CORAM: S.J. KATHAWALLA &
R.I.CHAGLA, JJ.**

DATE: 11th MARCH, 2020

P.C.:

1. Perused the earlier order passed by this Court dated 25th February, 2020. The opinion of the Assistant State Examiner of Documents, CID, M.S., Mumbai obtained by the EOW is produced before the Court. From the opinion, it appears that

the occupation certificate which was handed over by the builder to the society/occupants is a fabricated certificate. The Society is therefore, allowed to apply for fresh occupation certificate. Before considering the application, the Corporation shall give a hearing to the Society as well as to the Petitioners. In the event of the Corporation holding that the occupation certificate cannot be granted in view of certain irregularities/unauthorized constructions, the Society will be at liberty to move an application for regularisation and the representatives of the society shall be heard before deciding the regularization application. At the time of hearing, the Petitioners will be allowed to contend that at least the constructions which are not carried out as per the sanctioned plan in the rehab building be regularized. The Corporation shall not insist that the applications made to the Corporation should be received by the Corporation through the earlier architect of the developer or should be made under the same file number.

2. In the meantime, the Corporation shall not take any coercive action. If the orders passed by the Corporation are adverse to the Society/Petitioners, the Corporation shall not implement the same for a period of two weeks from the date of receipt of the orders by the Society/Petitioners.

3. This order is passed without prejudice to the rights and contentions of the SICOM (Liquidator of the Company in liquidation).

4. Copies of the application/representation made by the Society as well as the

Petitioners if any, to the Corporation shall be forwarded to each other as well as to the Liquidator.

5. The above Writ Petition is accordingly disposed of.

(R.I.CHAGLA, J.)

(S.J.KATHAWALLA, J.)