

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

WRIT PETITION NO.1167 OF 2020

Mohammed Umar Khan and Anr. ... Petitioners
versus
Municipal Corporation of Gr. Mumbai and Ors. ... Respondents

**WITH
WRIT PETITION (L) NO.9700 OF 2020**

Rameeza Y. Shaikh ... Petitioners
versus
Municipal Corporation of Gr. Mumbai and Ors. ... Respondents

Mr. Shoaib I. Memon with Mr. Iram S. Memon, for Petitioners in WP No.1167 of 2020.

Mr. Karl Tamboly i/by Shaba N. Khan for Petitioner in WPL 9700 of 2020.

Mrs. Rupali Adhate, for MCGM.

Mr. Mutahar Khan i/by M. Achan S. Chhopra, for Respondent Nos.8, 9, 11 to 17 in WP No.1167 of 2020 and for Respondent Nos.6 to 14 in WPL 9700 of 2020.

Ms. Gayatri Nayak i/by Mr. Rajesh P. Khobragade, for Respondent No.10 in WP No.1167 of 2020.

Mr. Kedar Dighe, AGP, for State.

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

DATE: 5th JANUARY, 2021

P.C.:

1. An Application is moved on behalf of the Petitioners who were the Petitioners in Writ Petition (L) No.717 of 2020 alleging that Rameeza Y. Shaikh, Petitioner in Writ Petition (L) No.9700 of 2020 has obtained an order dated 22nd

December, 2020 from this Court by suppressing certain facts from this Court, and by adopting a sharp practice. The order dated 22nd December, 2020 is reproduced hereunder for ready reference :

"1. The above Writ Petition is filed by the Petitioner who is a 80 years old widow and is residing at Siffin Co-op. Hsg. Soc. Ltd., Plot No.325, CTS No.F/17, Dr. Ambedkar Road, Bandra (W), Mumbai - 400 050, seeking the following reliefs :

"(a) this Hon'ble Court be pleased to pass an order and quash and set aside the impugned Notice bearing No.HW/D02HW/100/354-MMC Act/HW402N01/17-09-2019 dated 17th September, 2019 issued under Section 354 of the Mumbai Municipal Corporation Act, 1888;

(b) this Hon'ble Court be pleased to pass an order and restrain the Respondent Nos.1 to 3 and their officers, agents, any other persons acting through them from granting any permission or issuing any sanction for construction on the subject property unless the Petitioner's entitlement of a unit of 220 square feet carpet area is provided for in the plans put forthwith for the proposed development/construction;"

2. The learned Advocate for the Petitioner seeks to withdraw the above Writ Petition with liberty to file a Suit against the Respondents. However, he has requested this Court to direct MCGM not to disconnect the water and electricity supply or to dispossess the Petitioner for a limited period, since she is 80 years old and is residing

all alone. In view thereof, we pass the following order :

(i) The Writ Petition is disposed of as withdrawn with liberty to file a Suit on the same cause of action.

(ii) The Respondents shall upto 31st December, 2020 not disconnect the supply of water and electricity to the Petitioner's premises / flat and shall not dispossess her from the flat occupied by her to enable her to file a Suit before the appropriate Court and seek ad-interim / interim relief. The Suit filed by the Petitioner and any application filed therein shall be disposed of strictly on merits.

(iii) It is clarified that the Petitioner shall occupy her premises at her own risk.

(iv) All contentions of the parties are kept open.”

2. The said order was passed since the Petitioner – Rameeza Y. Shaikh was not a party to any of the proceedings before the City Civil Court and there were no adverse orders passed against her by any Court. Though on that very day, Respondent Nos.6 to 14 had also appeared and had submitted that the protection granted to the Petitioner be also granted to them, the same was rejected by this Court in view of the fact that the City Civil Court had passed an order against them and therefore, they were directed to move this Court by filing an Appeal from Order. In view thereof, we do not agree that the Petitioner in Writ Petition (L) No.9700 of 2020 has suppressed any fact from this Court or has obtained any order by adopting any sharp practice as alleged. Even otherwise, the protection granted by our order dated 22nd December,

2020 has lapsed. In view thereof, no further orders are required to be passed on the Praecipe dated 26th December, 2020. It is clarified that the Appeal from Order filed by Respondent Nos.6 to 14 shall be decided on its own merits.

(R.I.CHAGLA, J.)

(S.J.KATHAWALLA, J.)