

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

WRIT PETITION No. 2474 OF 2019

Sayed Habib Qureshi & Anr

..Petitioners.

Vs

Municipal Corporation of Gr. Mumbai & Ors

..Respondents.

Mr. Rajiv Narula with Mr. Aatir Saiyed i/by Jhangiani, Narula & Associates for
the Petitioners.

Mrs. Manisha Jagtap for Respondent Nos. 1 and 2-MHADA.

Ms. Yamuna Parekh for Respondent MCGM.

Mr. S.A. Bhalwal a/with Kundanlal Patil i/by M/s Vyas & Bhalwal for Respondent
No.4.

Mr. R.B. Singhvi i/by Lex Services for Respondent No.3.

**CORAM : S.J. KATHAWALLA &
B. P. COLABAWALLA, JJ.**
DATED :- 10th JANUARY, 2020.

P.C. :-

1. The Building, namely, 'Rahat Basr Manzil' is situated on plot bearing C.S. No. 1363, Mahim Division, bearing Cess No./Municipal Ward No.

G-5316 situated at Fort Road, Mahim, Mumbai – 400 016 (for short “the said property”). The owner of the said property is respondent No.3. Respondent No.3 had entered into a Development Agreement with the developer who is respondent No.4 herein. Thereupon 14 tenants were made to give up the possession of the respective premises and they are out since then i.e. they have virtually roofless since the last **12 years**. Construction is not completed since the dispute arose between respondent Nos. 3 and 4 and respondent No.3 terminated the development agreement with respondent No.4 by their letter dated 6th January, 2011. Suits and counter suits are filed by respondent Nos. 3 and 4. In the Notice of Motion taken out in the suit filed by the respondent No.3 an order directing status-quo in respect of the suit property is passed on 14th August, 2019.

2. The present Writ Petition is filed by two of the tenants for the following reliefs :-

“(a) That the Respondent No.2 be directed by a writ of mandamus to forthwith revoke / cancel / not renew the NOC issued to the Developer or any other person and instead grant NOC to any of the two tenants to complete the redevelopment of the property in accordance with law; and

(b) That the Respondent No.2 be directed by a writ of mandamus to take over possession and to complete the work of

redevelopment of the Property as per IOD, Commencement Certificate and other necessary permissions that have already been issued of the building known as “Rahat Basr Manzil” situate on a plot bearing C.S. 1363, Mahim Division, bearing Cess No. / Municipal Ward No. G-5316 situated at Fort Road, Mahim, and Mumbai – 400 016 (for short “Building”).”

3. Though we appreciate the problems faced by the tenants who are virtually roofless since the last 12 years, it is not possible for us to grant the above reliefs in view of the status-quo order qua the project passed in the Suit filed by respondent No.3. However, the tenants shall be at liberty to move the Court hearing the Suit filed by respondent No.3 and after seeking leave to intervene in the suit and apply for appropriate reliefs or take out independent proceedings against respondent Nos. 3 and 4. A copy of this order may be produced before the appropriate Court by the petitioners and their Advocates. The above Writ Petition is accordingly disposed of.

(B.P. COLABAWALLA, J.)

(S.J. KATHAWALLA, J.)