

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION No. 153 OF 2019

The Pali Hill Residents Association & Anr ..Petitioners.

Vs

Municipal Corporation of Gr. Mumbai & Ors ..Respondents.

Mr. Prasad Dhakephalkar, Senior Counsel i/by Nachiket Khaladkar for the
Petitioners.

Mr. A.Y. Sakhare, Senior Counsel a/with Rupali Adhate and Yamuna Parekh for
Respondent-MCGM.

Mr. Karl Tamboly i/by Rushil Mehta for Respondent No.3.

Mr. Vijay Kadam, Trustee of Respondent No.3.

**CORAM : S.J. KATHAWALLA &
B. P. COLABAWALLA, JJ.
DATED :- 24th JANUARY, 2020.**

P.C. :-

1. The above Writ Petition is filed by the Petitioners seeking directions

from this Court to quash, set aside and cancel the allotment of premises/welfare centre on the Ground and First Floor in Composite Building CTS No. C-1629/A1/2 at Union Park, Nargis Dutt Road, Bandra (W), Mumbai 400 050 admeasuring 462.52 square meters by the Municipal Corporation of Greater Mumbai (MCGM) to Shiv Vidya Prabodhini Balasaheb Thackeray I.A.S. Academy, (Respondent No.3), admeasuring 462.52 square meters vide Improvement Committee Resolution dated 28th March, 2018; Corporation Resolution dated 21st April, 2018; and Letter of Intent dated 23rd April, 2018. The Petitioners have also sought directions against the Municipal Corporation to issue public notice in respect of allotment of the above-mentioned premises as Welfare Centre and make allotment after receiving applications of interested Organizations and following the procedure laid down by law.

2. An ad-interim order was passed by this Court on 2nd August, 2018 restraining the MCGM from handing over possession of the said Welfare Centre to the Respondent No.3.

3. We had heard this matter in brief, on 23rd January, 2020 and had expressed our prima facie views qua the matter. Today, the learned Advocate appearing for Respondent No.3, on instructions from Vijay Kadam, Trustee of

Respondent No.3 Trust states that the application made by Respondent No.3 to MCGM dated 16th March, 2018 be treated as withdrawn and the allotment of the welfare centre to Respondent No.3 admeasuring approximately 4600 sq.ft. be treated as cancelled and MCGM may proceed to allot the said Welfare Centre as per the provisions of law including the policy of the MCGM applicable to such allotment.

4. Mr. Sakhare, learned Senior Counsel for the MCGM, states that the MCGM has prepared a draft Policy in September, 2019 and the same shall shortly be placed before the General Body of the MCGM for final approval. It is only after obtaining the said approval that the MCGM will proceed to invite applications by issuing advertisements in local newspapers.

5. In view of the above, we pass the following order :

(i) The statements made on behalf of Respondent No.3 and recorded hereinabove are accepted.

(ii) The letter of Intent issued by the Corporation dated 23rd April, 2018 to Shiv Vidya Prabodhini Balasaheb Thackeray I.A.S. Academy allotting the premises admeasuring approximately 4600 sq.ft. for being used as Welfare Centre stands cancelled.

(iii) The Corporation shall allot the said premises admeasuring approximately 4600 sq.ft. for use of welfare centre in accordance with law, after inviting applications from interested organizations through advertisements issued in the local newspapers.

(iv) It is clarified that we have not gone through the proposed policy of MCGM nor do we express any opinion qua the same.

(v) Respondent No.3 will be at liberty to respond to the advertisement issued by the Corporation.

(vi) The above Writ Petition is accordingly disposed off.

(B.P. COLABAWALLA, J.)

(S.J. KATHAWALLA, J.)