

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

WRIT PETITION No. 2989 OF 2019

Anthony James Francis Fernandes

..Petitioner.

Vs

Municipal Corporation of Gr. Mumbai & Ors

..Respondents.

Mr. U. P. Bobade i/by Mr. J. H. Ramngade, Advocate for the Petitioner.

Mr. Anoop Patil and Ms. Yamuna Parekh for Respondent-MCGM.

Mr. R.A. Shaikh and Mr. Sharif Khan for Respondent No.4.

Mr. Saurabh S. Godbole i/by Mr. M. R. Pereira for Respondent No.5.

**CORAM : S.J. KATHAWALLA &
B. P. COLABAWALLA, JJ.**
DATED :- 30th JANUARY, 2020.

P.C. :-

1. The above Writ Petition is filed by the Petitioner for the following

reliefs :-

a) That this Court be pleased to issue a Writ of Mandamus or a writ, order or direction under Article 226 of the Constitution of India calling for the records and papers of the Petitioner's case before Respondent Nos. 1 to 3 and after going through the same be pleased to direct Respondent Nos. 1 to 3 to perform a structural audit of the premises and structures thereon and issue notice under Section 354 of the Mumbai Municipal Corporation

Act, 1888 to demolish all illegal structures;

b) Pending the hearing and final disposal of the present Writ Petition, this Court be pleased to direct Respondent Nos. 1 to 3 to appoint a Technical Advisory Committee (T.A.C.) to perform an independent assessment by way of a structural audit of the premises and structures thereon and upon assigning a category to the state of building, act upon the report of the Technical Advisory Committee;

c) That pending the hearing and final disposal of the Writ Petition this Court be pleased to stay any further renovation/construction/structural alterations that may be carried out by Respondent Nos. 4 and 5;

d) For ad-interim reliefs in terms of prayer clause (b) to (c) hereinabove; and

e) For the costs of this Petition.”

2. The parties shall be at liberty to submit their reports of Structural Engineers to the Municipal Corporation. Accordingly, the Corporation shall take action on the same. However, it is clarified that this order will not preclude the Corporation from taking any steps against the persons who are responsible for carrying out unauthorized construction in the building as submitted by the Corporation in its two reports tendered in Court. It is also clarified that if any orders of the City Civil Court at Dindoshi, Borivali Division, Mumbai are coming in the way of the Municipal Corporation in taking action qua the unauthorized construction, they or any other party shall move the Principal Judge of the City

Civil Court for hearing the matters in which such orders are expedited.

3. The Writ Petition is accordingly disposed of.

(B. P. COLABAWALLA, J)

(S.J. KATHAWALLA, J.)