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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (Lodging) No. 3647 Of 2019

Shanti Prakash Realty & Infrastructure & Anr ..Petitioners.

Vs

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

Mr. Karl Tamboly a/with Yadunath Choudhari a/with Perna Lalchandani & Chinmaya Acharya for the petitioners.

Mr. Rajesh Patil a/with Rupali Adhate and Yamuna Parekh for MCGM Respondent No.1.

Mr. P.G. Lad a/with Aparna Kalathil & Sayali Apte for Respondent No.3.

Mr. Ravi Chidurala i/by Sachin Bandkar for Respondent No.5.

Mr. Nitin Kaskar for Respondent No.7, 11 (a), 11(b), 12 (a) and 12 (b).

Mr. Rohan Waghmare for Respondent No.4.

**CORAM : S.J. KATHAWALLA &
B. P. COLABAWALLA, JJ.**

DATED :- 14th JANUARY, 2020.

P.C. :-

1. The above Writ Petition is filed by the petitioners inter alia seeking the following reliefs:-

(a) This Court be pleased to issue writ of mandamus or any other appropriate writ, order or direction in nature of mandamus directing Respondent Nos. 1 and 2 to take action of demolition of the structures/illegal sheds/illegal extensions occupied by respondent Nos. 4 to 12 on the property viz. Final Plot No. 1009, TPS IV, Mahim Division, Mavji Mansion, Khedgully, Prabhadevi, Mumbai-400 025;

(b) This Court be pleased to issue writ of mandamus or any other appropriate writ, order or direction in the nature of mandamus directing the concerned police station to investigate the matter of unauthorized construction and also the fabrication of documents in detail and submit the report to this Court.

(c) Pending the hearing and final disposal of the present petition, Court Receiver, High Court, Bombay be appointed as Receiver in respect of the structures/ illegal constructions/ unauthorized sheds/ unauthorized extensions occupied by respondent Nos. 4 to 12 and to take physical possession of the structures mentioned in the cause title and also the unauthorized constructions made by respondent Nos. 4 to 7 and hand over the same to the petitioners for the purpose of demolition;

(d) In the event, this Court grants prayer clause (c), the Court Receiver be discharged after compliance of directions under prayer clause (c);

(e) interim and ad-interim relief in terms of prayer clause (d)

above; and

(f) such other and further orders as this Court may deem fit and proper in the facts and circumstances of the case may kindly be passed.”

2. The learned Advocate appearing for respondent Nos. 5, 7, 11(a), 11(b), 12(a) and 12 (b) have informed the Court that the allegations made by the petitioners that they have illegally extended their structures or that any structures have been illegally put up are incorrect.

3. Since the Advocate for the petitioners have informed the Court that representations have been made to the Corporation in this regard on 3rd December, 2018, 11th January, 2019, 28th January, 2019, 22nd February, 2019 and 4th December, 2019 as set out in paragraphs 20 of the Writ Petition, by consent of the petitioners and the contesting respondents, we pass the following order :-

(a) The parties and/or their Advocates shall appear before the Assistant Commissioner G-South Ward along with their submissions and documents which they desire to produce, on 18th February, 2020 at 12:00 noon. The Assistant Commissioner shall after hearing all the parties and considering the written submissions pass his order within a period of four weeks thereafter.

(b) All contentions of parties are kept open.

(c) The annexures to the complaint which are not annexed to the writ petition shall be provided to the Advocates appearing for the contesting tenants by 10th January, 2020.

4. The above Writ Petition is accordingly disposed of.

(B.P. COLABAWALLA, J.)

(S.J. KATHAWALLA, J.)