

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2081 OF 2021

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M/S.PYRAMID INFRATECH COMPANY) ...PETITIONER
V/s.
MAHARASHTRA INDUSTRIAL DEVELOPMENT
CORPORATION LTD. AND OTHERS) ...RESPONDENTS

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Mr.R.D.Soni i/b. Ram and Company, Advocate for the Petitioner.
Dr.Milind Sathe, Senior Counsel, a/w. Ms.Shyamali Gadre and Ms.Tanvi
Doshi i/b. Little and Co., Advocate for Respondent Nos.1 to 3.
Mr.Nitin Gangal a/w. Mr.Ashok Kadam and Ms.Prema Shukla, Advocate for
Respondent No.6 / CIDCO.
Mr.Sandeep Marne, Advocate for Respondent No.7.
Mr.A.A.Alaspurkar, AGP for the Respondent No.8 / State.
Mr.S.K.Dhekale, OSD, Court Receiver is present in Court.

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**CORAM : A.A. SAYED &
V. G. BISHT, JJ.**

**DATED : 27 JULY 2021
(THROUGH V.C.)**

P.C.:

Leave to add the Court Receiver as party-Respondent.

Amendment to be carried out within one week.

2. The Petitioner is aggrieved by the inaction on the part of the
Respondent-MIDC and seeks enforcement of the order dated 10 December
2015 in Writ Petition (L) No.32436 of 2015 passed by the Division Bench of

this Court which directed the Respondent-MIDC to take action of the demolition of the building “Ambika Apartment `A' and `B' Wings” (hereinafter referred as the said building) which is subject matter of this Petition. The Petitioners in the said Petition i.e. Writ Petition (L) No.32436 of 2015 accepted that the construction of the said building was illegal and gave an unconditional undertaking to vacate their flats. The Division Bench appointed a Court Receiver, High Court, Mumbai as Receiver of the said building and further directed that in case of failure to vacate on or before 31 December 2015, the Court Receiver shall take forcible possession of the said building with the police assistance. The operative part of the order dated 10 December 2015 in Writ Petition (L) No.32436 of 2015 reads as follows:

“(a) The Writ Petition is rejected;

(b) The undertakings of the Petitioners, marked “X1” (collectively) are accepted. In view of the undertakings, the action of demolition shall not be taken by the MIDC on the basis of the impugned notices till 31st December 2015;

(c) We appoint the Court Receiver, High Court, Mumbai as a Receiver of the building subject matter of this Petition. The Court Receiver shall take symbolic possession of all the premises in the building;

(d) The Petitioners have already deposited a total amount of Rs. 25,000/- with the Office of the Court Receiver, High Court, Mumbai;

(e) In the event of the failure of the Petitioners to vacate the premises in their respective possession and hand over possession thereof to the MIDC on or before 31st December 2015, the Court Receiver shall take forcible possession of the premises in possession of the Petitioners with the police assistance;

(f) On an application made by the Office of the Court Receiver, the local Police Station shall grant necessary police protection and assistance to the Office of the Court Receiver;

(g) After the Court Receiver takes physical possession of the premises in the building subject matter of this Petition, he shall hand over the possession to the MIDC to enable the MIDC for taking the action of demolition;

(h) All concerned to act on an authenticated copy of this order.”

3. It is thus an admitted position that the said building is illegally constructed and was directed to be demolished by Respondent-MIDC vide order dated 10 December 2015 of this Court. Despite the said order dated 10 December 2015, the said building has not been demolished. The case of the Respondent-MIDC is that Plot No.X-21 on which the said building stands is allotted to the Petitioner and possession of the plot with the said building has been handed over to the Petitioner on 4 August 2016 on “as is where is” basis.

4. In compliance of the aforesaid order dated 10 December 2015 passed by the Division Bench of this Court, the Court Receiver has taken forcible physical possession of the said building and has handed over vacant possession of the said building to Respondent-MIDC on 31 May 2016. The Court Receiver continues to be in formal possession of the said building and there is no order discharging the Court Receiver. In the circumstances, the said building is still in custodia legis. The encroachers/occupants, if any, in the said building cannot claim to have any right to occupy the said building and would be bound by the order dated 10 December 2015 of this Court. Hence, by consent, we dispose of the Petition by passing following order:

ORDER

- i) The Petitioner-M/s. Pyramid Infratech Company and the Respondent-MIDC shall jointly apply to the Inspector-in-charge of Rabale Police Station, Navi Mumbai for granting suitable police protection to the Petitioner and Respondent-MIDC for carrying out the demolition of the said building situate on Plot No.X-21, TTC Industrial Area, Ganpatipada, Navi Mumbai.
- ii) The Respondent-MIDC being Special Planning Authority alongwith the Petitioner who is the allottee of the said plot shall jointly

conduct the task of demolition of the said building so as to implement the order dated 10 December 2015 passed by this Court in Writ Petition (L) No.32436 of 2015 and the order dated 2 November 2018 in PIL No.82 of 2017 and connected matters.

iii) The equipment and logistical support for the aforesaid demolition of the said building shall be provided by the Petitioner alone and the entire cost of such operation shall be borne by the Petitioner alone.

iv) We direct the Inspector-in-charge of Rabale Police Station to provide necessary assistance and necessary police protection for ensuring that the flats in the said building are vacated and the building is demolished. Parties would be at liberty to take the assistance of the Court Receiver, if so required, upon payment of the Court Receiver's charges.

v) The work of the demolition of the said building shall be completed expeditiously and in any event by 31 October 2021.

6. The Petition is disposed of in the aforesaid terms. Liberty to apply.

(V. G. BISHT,J.)

(A.A.SAYED, J.)