

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 3237 OF 2021

Shraddha Sahakari Grihanirman
Sanstha Ltd.

...Petitioner

Versus

Navi Mumbai Municipal Corporation and Ors.

...Respondents

Mr.Atul Damle, Senior Counsel i/b. Mr.Sugandh B. Deshmukh for the
Petitioner.

Mr. Sandeep Marne for the Respondent – NMMC.

Dr.Suresh Mane a/w. Ms.Babita Pandey for Respondent Nos. 8, 10, 11, 13,
15, 18 to 28.

Mr. A.I. Patel, Addl. GP for the Respondent -State.

Mr.Vishwajeet Sawant a/w. Mr.Prabhakar Jadhav i/b.Mr.Shubham Misar for
Respondent No. 5

Mr.Rushikesh C. Barge for Respondent Nos. 7, 9, 12, 16, 17 and 30.

**CORAM : A. A. SAYED &
S.G.DIGE, JJ.**

DATED : 8th SEPTEMBER 2021

P.C.:

1. The Petition is filed by the Petitioner seeking the following reliefs:

(A) That this Honourable Court be pleased to issue a writ
mandamus or writ in the nature of mandamus or any other
appropriate writ direction and order under Article 226 of
the Constitution of India, 1950, thereby be pleased to
direct the Respondents forthwith to take the appropriate

action to vacate the persons/ members who are staying in the buildings of the Petitioner's society which are declared as a C1 Category buildings situated at Plot No. 10, Sector 10, Vashi, Navi Mumbai and to take action under Section 264 and 268 of the Maharashtra Municipal Corporation Act, 1949.

(B) That this Honourable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order under Article 226 of the Constitution of India, 1950, thereby be pleased to direct the Respondents to disconnect the water supply as well as electricity supply to the buildings of the Petitioner society situated at Plot No. 10, Sector 10, Vashi, Navi Mumbai.

(C) That during the pendency of this petition that this Honourable Court be pleased to direct the Respondents to disconnect the water supply, electricity connection and also direct to vacate the persons who are staying in the buildings of the Petitioner society situated at Plot no. 10, Sector 10, Vashi, Navi Mumbai which is declared as a C1 buildings.

2. We note that the Division Bench of this Court in Writ Petition No. 9767 of 2016 (and the connected Writ Petitions), which were filed by some

of the occupants of the buildings in question, had passed an order on 3rd October, 2018 wherein it is recorded that out of 368 occupants, 264 have already vacated the buildings. The Division Bench noted that notice under Section 268 of the Maharashtra Municipal Corporation Act was issued by the Respondent -Corporation and the buildings were categorized as C1 category.

3. The Division Bench further observed in paragraph 9 of the said order dated 3rd October 2018 as follows :

“9. We do not find any reason to stop the Corporation from taking any further steps subject to following appropriate procedure as prescribed in law as Corporation has already categorized the subject building as C-1”

4. The aforesaid order was passed by the Division Bench on 3rd October, 2018. We are now in September, 2021. The condition of the buildings in question may have deteriorated further. We are informed that out of 23 buildings, 7 buildings have already been demolished and except the Respondent Nos.6 to 30, all other occupants are co-operating in the redevelopment of the buildings. The Petitioner Society has already entered into a Development Agreement dated 16th August, 2021 with the Respondent

No.5 - Developer E.V. Homes Construction Private Limited.

5. It is pointed out by learned Senior Counsel for the Petitioner that the Development Agreement takes care of interest of all the occupants including the aforesaid Respondent Nos.6 to 30.

6. Though we had adjourned the matter on the earlier occasions to enable the parties to sit together to resolve the dispute in respect of the redevelopment of the buildings, it appears that the settlement has not materialized.

7. On query by the Court to the learned Counsel for the Respondent-Corporation, as to why despite the order dated 3rd October, 2018, no steps are taken to implement the notices, learned Counsel for the Respondent - Corporation fairly states that the Respondent-Corporation shall act upon the notices issued under Sections 264 and 268 of the Maharashtra Municipal Corporation Act expeditiously.

8. We are informed that some of the occupants have already vacated the buildings and some of them have been accommodated in the transit camps.

9. In the circumstances, we are of the view that the Respondent Nos.6 to 30 who are in minority cannot stall the redevelopment of the buildings. The buildings in question have already been declared C1 category buildings and are required to be demolished. If the Respondent Nos.6 to 30 have any grievance as regards redevelopment of the buildings, the same be taken up with the Respondent-Corporation after they vacate their respective premises.

10. In the facts and circumstances of the case, we dispose of the Petition by passing the following order :

ORDER

(a) The Petition is allowed in terms of prayer clause (A);

(b) The Respondent- Corporation shall take action pursuant to the Notices issued under Sections 264 and 268 of the Maharashtra Municipal Corporation Act expeditiously.

(c) The Senior Inspector of Vashi Police Station shall provide necessary assistance to the Respondent – Corporation to ensure that the occupants vacate the buildings and the Notices issued under Sections 264 and 268 of the Maharashtra Municipal Corporation Act are taken to its logical conclusion.

(d) We record the statement of the learned Senior Counsel for the Respondent – Developer that the Respondent Nos.6 to 30 would be treated at par with the other occupants of the

buildings and all benefits granted to the other occupants shall also be granted to the Respondent Nos.6 to 30 in the redevelopment project.

10. We make it clear that the occupants of the said buildings, who are still in occupation, shall occupy the said buildings at their own risk and they alone shall be held responsible in the event of any mishap/untoward incident.

11. This order would be subject to any protective order passed by the Special Bench of this Court in Suo Moto PIL No.1 of 2021 and the parties shall, **if so required**, apply to the First Court and seek directions in respect of vacation of the occupants/ demolition of the buildings.

(S.G.DIGE, J.)

(A. A. SAYED, J.)