

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.11803 OF 2019

Prakash Chandrakant Salvi

...Petitioner

v/s.

Mira Bhayandar Municipal Corporation
and Ors.

...Respondents

Mr.Vinod S.Pandey i/b Mr.S.U.Pandey for the Petitioner.

Ms.R.M.Shinde, AGP for the State.

Ms.Pooja R.Singh i/b N.R.Bubna for Respondent Nos.1 & 2.

CORAM : A.A. SAYED &

S.G.DIGE, JJ.

DATED : 2 SEPTEMBER 2021

P.C.:

The Petitioner claims to be owner of Flat No.101 situated on 1st floor of Guru Krupa Building situated on land bearing Survey No.18, Hissa No.3, Plot No.12 admeasuring 433.93 sq.mtrs. situated at village Bhayandar (West), Taluka & District Thane. The present Petition is filed seeking the following reliefs:

“(a) This Hon'ble Court be pleased to issue a writ of mandamus or any other Writ, Direction or Order in the nature of mandamus under Article 226 of the Constitution of India, calling for the records of office of the Respondent Nos.1, 2, & 4 in respect of Guru Krupa Building situated at Prakash Market Road, Bhayander (West), District-Thane and after

considering the legality, validity and propriety of the notices dated 23-04-2009, 06-12-2010, 06-04-2011, 20-09-2011, 02-11-2011, 30-11-2012, 27-12-2012, 09-04-2013 and 24-11-2017 issued by the Respondent Nos.1 & 2, this Hon'ble Court be pleased to order and declare that the building as dilapidated.

(b) This Hon'ble Court be further pleased to order and direct the Respondent Nos.1,2 & 4 to get the Guru Krupa Building vacated from the occupants/owners of the premises alongwith their families an be ordered to cause demolition of the said building.

(c) This Hon'ble Court be pleased to order and direct the Respondent Nos.1 & 2 to initiate necessary action against the occupants/owners of the premises situated on the ground and first floor of the Guru Krupa Building for carrying out illegal addition and alteration into the premises for causing illegal change of user of the premises from residential to commercial."

2. The Petitioner has already filed a suit being Regular Civil Suit No.576 of 2018 in the Civil Court at Thane, wherein he has sought the following prayers:

"(a) This Hon'ble Court by a mandatory order direct the Defendants to get inspected the structural condition of the said building either from Indian Institute of Technology, Mumbai or V.J.T.I. College of Engineering, Mumbai on priority basis and to act accordingly on its report.

(b) This Hon'ble Court by a mandatory order direct the Defendants to take the preventive measures for avoiding mishap/danger to the lives and properties of the inhabitants of the said building due to its dilapidated condition.

3. In the facts and circumstances of the case, we are not inclined to entertain the Petition. The Petition is disposed of with liberty to the Petitioner to make a representation to the Respondent-Corporation in respect of alleged additions and alterations carried out by the occupants of the building. If such representation is made within two weeks from today, it shall be decided by the Respondent-Corporation expeditiously and in accordance with law.

4. The Petition to stand disposed of accordingly.

(S.G.DIGE,J.)

(A.A.SAYED, J.)