

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

**REVIEW PETITION (L) NO.89 OF 2019
IN
WRIT PETITION NO.1618 OF 2019**

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Municipal Corporation of
Greater Mumbai and Ors.

..... Petitioners

Vs.

Mominpura Co-operative Housing Society
Limited (Proposed) and Ors. Respondents

Mr.Anil Sakhare, Senior Advocate with Oorja Dhond for the
MCGM

Mr.Arshad Shaikh I/b Abdul Bari Ansari for the Ori.
Respondents

**CORAM: K.K.TATED &
G.S.PATEL, JJ.**

**DATED : AUGUST 26, 2021
(IN CHAMBER AT 2.15 P.M.)**

P.C.

. Heard.

2. We have condoned the delay by our order dated
12.08.2021.

3. We have heard Mr.Sakhare, the learned Senior
Advocate for the M.C.G.M. and Mr.Shaikh for the

Respondents. The Review Petition seeks review of our order dated 09.07.2019 at Exhibit 'I' from page 165 to 172. One of us (Mr.G.S.Patel, J.) was a member of Bench that passed the order.

4. Mr.Sakhare's submission is that the question is not of eviction of the Municipal tenants from the building in question but on the contrary is in regard to the demolition of dilapidated premises for the purpose of reconstruction. He submits that all tenants will be re-accommodated in the re-constructed building as per the extant M.C.G.M. policy. His apprehension is that any action that the M.C.G.M. takes in this regard, whether under its Circular dated 25.05.2018 in regard to guidelines for declaring private municipal building in the C-1 category (Dangerous / unsafe), or under section 354 of the M.C.G.M. Act, 1988, should not be held or seen to be contrary to law.

5. We are unable to appreciate this submission. The order under review makes it clear that the M.C.G.M. was/is fully at liberty to proceed in accordance with law, and in paragraph 8 observed thus:

"8. In the light of the aforesaid discussion, the writ petition succeeds. The notices issued to the petitioners are quashed and set aside. Rule is made absolute in these terms. The Municipal Corporation, however, is free to take recourse to such legal provisions and power as are conferred in it by law. It can evict the petitioners from the premises by taking recourse to law and not

otherwise.”

6. Thus, whatever action M.C.G.M. wishes to take, must be in accordance with law, whether this relates to reconstruction of the building after demolition or accommodation of tenants in transit accommodation followed by accommodation in the reconstructed building. The M.C.G.M. is at liberty to avail all remedies available to it. This is in fact, precisely what the judgment under review says.

7. With this observation, we dispose of the Review Petition. We do not find any ground on merits to interfere and we do not believe that there is a cause to review under Section 114 or Order 47 of the Civil Procedure Code, 1908.

8. At this stage, Mr.Shaikh tells us that there is a proposal by the Municipal tenants for said redevelopment through a developer.

9. Mr.Sakhare states this is under consideration and in process, including preparation of the Annexure – 2 list. The statement is noted and accepted.

10. The review petition is disposed of in these terms. No costs.

(G.S.PATEL, J.)

(K.K.TATED, J.)