

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

WRIT PETITION NO. 2434 OF 2022

Ekta Co-operative Housing Society Ltd.Petitioner
Versus
Navi Mumbai Municipal Corporation & Ors . . .Respondents

Adv. Sugandh Deshmukh for the Petitioner.
Adv. Rushikesh Barge for the Respondent Nos. 5 to 10.
Adv. Shubham Misar for the Respondent No. 11.
Mr. Sandeep Marne for the Respondent-Corporation

**CORAM : A. A. SAYED &
 ABHAY AHUJA, JJ**

DATED : 21st MARCH, 2022

P.C.:

Adv. Rushikesh Barge undertakes to file Vakalatnama on behalf of Respondent Nos. 5 to 10. The Vakalatnama to be filed within 10 days from today.

2. The above Writ Petition is filed by the Petitioner-Society seeking the following reliefs:

(a) That this Hon'ble 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 building of the Petitioner's society which are declared as C1 Category buildings situated at Plot No. 5, Sector 9, 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 building of the Petitioner society situated at Plot No. 5, Sector 9, Vashi, Navi Mumbai.

3. It is an admitted position that the 18 buildings which are subject matter of this Petition have been declared as C-1 Category buildings. There are 432 tenements and each tenement is about 149 sq.ft. (carpet area). On 29.05.2016, the Respondent-Corporation had published a list of dangerous category buildings including the buildings of the Petitioner-Society. On 21.04.2017 Notice under section 268(1) of the Maharashtra Municipal Corporation Act has been issued by the Respondent-Corporation to vacate the premises. On 11.05.2019, the General Body of the Petitioner-Society passed a resolution for re-development of the buildings. On 03.02.2021, Commencement Certificate has been issued by the Respondent-Corporation for re-development of the buildings. Thereafter, several notices have been issued by the Respondent-Corporation under section 268(1) of the MMC Act.

4. Learned Counsel for the Petitioner-Society states that except for the Respondent Nos. 5 to 10, all other tenants/occupants are

co-operating in the re-development and majority of the occupants/tenants have already vacated their tenements.

5. Learned Counsel for the Respondent Nos. 5 to 10 states that Respondent Nos. 5 to 10 have no objection to the re-development of the buildings so long as the Respondent Nos. 5 to 10 are treated at par with the other occupants/tenants.

6. We record the statement of learned Counsel for the Respondent No. 11-Developer that the Respondent Nos. 5 to 10 would be treated at par with the other occupants/tenants. We further record the statement of learned Counsel for the Respondent No. 11-Developer that the Agreement for permanent alternate accommodation shall be entered into with all the occupants/tenants for the carpet area of 314 sq.ft. (which is more than 100% of the existing area) and the said Agreement shall be executed and registered and all endeavors may be made to complete the construction of new buildings within 4 years from the date the old buildings are demolished. We also record the statement of learned Counsel for the Respondent No. 11-Developer that (i) rent of Rs.7,000/- per month with 5% increase per annum, (ii) Rs.50,000 towards deposit, (iii) Rs.7,000/-towards brokerage charges and (iv) Rs.5000/- towards the shifting charges

shall be paid by the Respondent No. 11-Developer to the occupants/tenants including Respondent Nos. 5 to 8.

7. In light of above, the Petition is allowed in terms of prayer clause (a) and (b). The Petition to stand disposed of.

(ABHAY AHUJA, J.)

(A. A. SAYED, J.)