

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8021 OF 2022

Usha Kantilal Sharma] ... Petitioner

Vs.

The Thane Municipal Corporation &]
Anr.] ... Respondents

...

Mr. Sandeep Mishra with Mr. Gangesh Jha for the petitioner.

Mr. Deepak Chitnis i/b Deepak Chitnis Chiparikar & Co. for
respondent No.3-Society.

Mr. N.R. Bubna with Ms. Pooja Singh for respondent Nos.1 and
2-TMC.

...

**CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.**

DATED : 22ND SEPTEMBER, 2022.

P.C.:-

1. By this writ petition filed under Article 226 of the Constitution, the petitioner has impugned the last notice dated 20/06/2022 in pursuance of notices under Section 264 (1)(2)(3) (4) dated 26/04/2012, notice under Section 268(1) dated 29/06/2021 as well as notice under Section 268(5) of the

Maharashtra Municipal Corporation Act, issued by respondent No.2 on the ground that the condition of the building is not dilapidated.

2. We have heard learned counsel for the parties and have perused the documents annexed to the petition and also the affidavit in reply filed by respondent No.3-Society.

3. Respondent No.3-Society has already passed a Resolution to redevelop the entire building. The petitioner is a member of the Society. The petitioner has not challenged the Resolution passed by the Society under Section 91 of the Maharashtra Co-operative Societies Act, 1960.

4. Insofar as the building in question is concerned, except the petitioner all other members have vacated the building. In our view, one member out of 36 members, cannot stall the project of redevelopment.

5. Mr. Mishra, learned counsel for the petitioner states that the Society has not approached the petitioner for settlement. We do not find any substance in this argument of the leaned counsel.

6. A large number of members, who have vacated the building, cannot be made to suffer because of the adamant approach adopted by the petitioner. There is no merit in the

petition. The petition is accordingly dismissed.

7. The petitioner is directed to handover vacant possession of the tenement in his possession to respondent No.3-Society within two weeks from today, without fail. If the petitioner does not handover vacant possession of the said premises to the Society, the Society would be at liberty to take forcible possession and, if necessary, with the assistance of police. If any police assistance is requested by the Society from the local police station, they shall provide the assistance on payment of requisite charges, if any, to the Society to implement this order.

8. No order as to costs.

9. The parties to act on the authenticated copy of this order.

[KAMAL KHATA, J.]

[R. D. DHANUKA, J.]