

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

APPEAL FROM ORDER NO. 154 OF 2021
WITH
INTERIM APPLICATION NO. 1618 of 2021

Bharati Rajiv Gulati & Ors.

..Appellants

v/s.

Municipal Corporation of Gr. Mumbai & Ors.

..Respondents

Mr. Mehrwan Irani i/b. Dushyant Krishnan for the Appellant/s.

Mr. Vinod Chate, Counsel a/w. R.R.Sirsikar for the Respondent No.1
M.C.G.M.

Mr. Sanjeev Kadam a/w. Yogesh Birajdar for the Respondent No.2.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 19th DECEMBER, 2022.**

P.C.

1. With consent, heard finally at the stage of admission.
2. The challenge in this appeal is to the Order dated 16.12.2020, whereby the learned Judge, City Civil Court, Borivali Division, dismissed the Notice of Motion No. 3118 of 2019 filed in L.C. Suit No.2373 of 2019.
3. The Appellants, who are the Plaintiffs in the suit had challenged the notice dated 17.09.2019 issued by the Corporation under Section 354 of MMC Act in respect of the building known as Siffin Apartment

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CHSL, situated at Dr. Ambedkar Road, Bandra (West), Mumbai, that the building was in dilapidated condition and that it is required to be pulled down. They relied upon a Structural Audit Report. The Trial Court did not rely upon the report and held that the building which is more than 30 years old is in dilapidated condition and is likely to come down at any time. It is further held that most of the occupants have vacated their respective premises and are awaiting redevelopment of the building.

4. The Technical Advisory Committee (TAC) has classified the building 'Siffin Apartment' in C-1 Category. The society has proposed to redevelop the building and most of the occupants have vacated the building. Considering the condition of the building and TAC reports, which reveals that the building is in dilapidated condition, it would be hazardous and dangerous to allow the building to stand. Moreover, the society has proposed to develop the said building and most of the occupants have vacated the premises. Hence the statutory body cannot be restrained from carrying out its statutory duties. The impugned order to that extent cannot be interfered in respect of Siffin Building.

5. It is stated that Appellant Nos.1, 3 and 5 are occupying the adjoining independent structures. These structures are not in dilapidated condition. The 354 notice does not refer to these structures and these structures are not proposed to be demolished.

6. Learned Counsel for the Corporation submits that the electricity connection of these structures was disconnected to avoid fire accident in the course of demolition of the main building. He submits that the demolition will be concluded within four weeks and the electricity of these three premises will be restored after completion of the demolition process. Statement accepted.

7. Appeal stands disposed of in the light of the statement made by the learned Counsel for the Corporation.

8. Interim Application, stands disposed of in view of disposal of the Appeal.

(ANUJA PRABHUDESSAI, J.)