

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

INTERIM APPLICATION NO.17561 OF 2022

IN

REVIEW PETITION (ST) NO.20458 OF 2022

Rahendra Ramesh Jethwa

& Ors.

.. Applicants/Petitioners

v/s.

Thane Municipal Corporation

& Ors.

.. Respondents

Mr. Ashish Mehta a/w Ms. Komal Bhoir i/by Ethos Legal Alliance for the
Applicant/Review Petitioners

Mr. N. R. Bubna with Ms. Pooja Singh for respondent Nos.1 to 5 – TMC.

CORAM : R.D. DHANUKA &

KAMAL KHATA, JJ.

DATED : 22ND AUGUST, 2022.

P.C. :

1. By this Review Petition (ST) No.20458 of 2022, the Petitioners are seeking recall of the order dated 2nd August 2022 passed by this Court disposing off the writ petition filed by the Petitioners after recording various undertakings tendered by the parties and after hearing the learned counsel for both the parties. The

apprehension of the Review Petitioner is that the petitioner will not get any authorized premises for permanent accommodation made by respondent No.1 by asking the petitioner to vacate their respective tenements. In view of such apprehension we called upon the learned counsel for the respondent No.1 to make appropriate statement. Learned counsel for the respondent No.1 – Municipal Corporation submitted that each of the petitioners were already offered temporary accommodation, clearly identified with the notices issued by the respondent No.1. This Court recorded the statement made by the learned counsel for the respondent that there are some more tenements, which are occupied by occupants. If the petitioners vacate their respective tenements in their possession and handover the vacant possession to the Municipal Corporation within one week from the date of the said order, the Municipal Corporation would get the other tenements occupied by the other employees also vacated within one week from the date of the said order. At that stage, the learned counsel for the review petitioners, on instructions, undertook to vacate the tenements within three weeks instead of one week. We accepted the undertaking tendered by learned counsel for the review petitioners and granted three weeks' time

to the review petitioners to vacate the respective tenements. The undertakings are accordingly recorded in paragraph No.10 of the said order. This Court accordingly made it clear that if the petitioners do not vacate the tenements in their respective possession and handover the same to the Municipal Corporation within three weeks from the date of the said order, the Municipal Corporation would be at liberty to take forcible possession if necessary, with the assistance of police.

2. In paragraph No.13 of the said order, this Court recorded that the learned counsel for the petitioners, on instructions, undertakes that in view of the petitioners occupying the tenements, if any untoward incident takes place during the said period of three weeks, the petitioners would not hold the Municipal Corporation or any other respondents, responsible for any untoward incidents.
3. The present review petition is filed by the petitioners on 18th August 2022.
4. Mr. Mehta, learned counsel for the review petitioners has invited our attention to the grounds raised in the review petition and submitted that the learned counsel, who tendered the undertakings before this Court was not authorized to tender any such undertaking on behalf of the review petitioners. Several

documents, which were handed over to the learned advocate by the petitioners, were not annexed to the writ petition. The copy of the structural audit report, which was already handed over to the learned advocate was also not fully annexed to the writ petition. It is submitted that the petitioner No.26 – Mr. Kiran More, who was the authorized signatory of the petitioner was illiterate and could not have tendered such undertaking.

5. Mr. Bubna, learned counsel for respondent No.1, on the other hand, invited our attention to the verification clause of the review petition and submitted that the same person has verified the review petition. In the review petition, it is nowhere submitted that Mr. Kiran More was unable to give any such instructions to the learned advocate. Perusal of the verification clause of the writ petition also indicates that the writ petition was also verified by the same person. The said Mr. Kiran More has signed in English. He has never applied for any translation or interpretation of the writ petition or the review petition.
6. This Court had granted three weeks' time to vacate, though, the Municipal Corporation had made a statement only for one week to get the other tenements vacated. The order was passed after considering all the apprehensions of the review petitioners. This

Court had granted time to vacate, as prayed by the review petitioners.

7. Merely because there is change of advocate, the review petitioners cannot be allowed to seek reconsideration of the entire matter afresh by making allegations against the earlier advocate. The earlier advocate was not issued any notice to deal with allegations. The order passed by this Court is very clear, thereby recording the undertaking rendered by the advocate. No case is made out for recall of the order dated 2nd August 2022 passed by this Court. When asked, learned counsel for the petitioners could not point out under which provision of Order 47 Rule 1 of the CPC, a review petition would be maintainable. Review petition is filed with a view to avoid the undertaking given by the earlier advocate of review petitioners. The review petition is filed 16 days after the order passed by this Court whereas the review petitioners were required to vacate the same within 21 days of the said order in compliance with the undertaking rendered with petitioners.
8. Review petition is accordingly dismissed. The Municipal Corporation is directed to take forcible possession from all these occupants and, if necessary, with assistance of local police.
9. Review petition is dismissed with costs quantified at Rs.50,000/-

which shall be paid by the review petitioners within one week from today. Copy of the receipt of the payment of cost shall be produced before the Sheristedar of this Court within three days of making the payment.

10. In view of the disposal of the review petition, Interim Application No. 17561 of 2022 does not survive and is, accordingly, dismissed.

11. Application for stay of the order passed by this Court directing the review petitioners to vacate the tenements within a period of three weeks, is rejected.

12. Parties to act on authenticated copy of this order.

(KAMAL KHATA, J.)

(R.D.DHANUKA, J.)