

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

**APPEAL FROM ORDER NO 1151 OF 2022
WITH
INTERIM APPLICATION NO.30421 OF 2022
IN
APPEAL FROM ORDER NO. 1151 OF 2022**

Mr. Sandeep Bhosle and ors. ... Appellants
v/s.
Municipal Corporation of Greater
Mumbai and ors. Respondents

Mr. Bhavin R. Bhatia a/w. Mr. Rohit Yadav and
Mr. Nirav Kuria for the Appellants.
Mr. Joel Carlos a/w. Mr. R.Y. Sirsikar for the Respondent – MCGM.
Mr. Dilip Rai a/w. Mr. Ajay Rao for Respondent Nos.3 and 5.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 21st DECEMBER, 2022.

P. C. :-

. The Appellants who are the occupants of ‘Shanti Darshan’ building also known as ‘Jugal Kishor’ building situated Opp. Shankar Mandir, Corner of Jakaria Road, S.V. Road, Malad (W), Mumbai – 400 064, challenged the notice under section 354 of the Mumbai Municipal Corporation (MMC) Act, issued by the Respondent No.1 – Corporation.

2. Heard learned counsel for the Appellant, learned counsel for the Corporation and learned counsel for Respondent Nos.3 and 5. I have perused the records and considered the submissions advanced by the

learned counsel for the respective parties.

3. It is not in dispute that the building is over 100 years old. It is stated that the building is on the intersection of S.V. Road and station road which is stated to be the busy locality. The Technical Advisory Committee (TAC) report reveals that the structure is in dilapidated condition, beyond viable repairs and unsafe and unfit for occupation. The TAC has classified the building in C-1 category. There is no reason for this Court to discard the report of the Expert Committee. Moreover, considering the precarious condition of the building, there is every possibility of the building collapsing. Considering the location of the building, any such mishap will not only pose danger to the life of the Appellants and other occupants of the building but will lead to loss of lives of pedestrians/passersby and other members of the public. Considering the consequences, the Corporation cannot be restrained from discharging its statutory duty.

4. Learned counsel for the Appellants seeks three weeks time to vacate the premises. He states that the Appellants have already furnished undertaking before the Trial Court and that the undertaking shall continue for next three weeks. Statement accepted.

5. Learned counsel for the Corporation has placed on record the area information statement. He has stated that the Corporation shall adhere to the policy dated 25/05/2018 and all the other relevant provisions of law. He further submits that the Corporation shall give no objection to the electricity and water supply department within a period of 48 hours to re-connect electricity and water supply for a period of three weeks from the date of this order. Statement is accepted.

6. Learned counsel for the Appellants states that the name of Appellant No.7 and other Appellants is not reflected in the Area Information Statement. He seeks leave to apply in the event the names of any of the occupants are not reflected in the Area Statement.

7. Under the circumstances, the following order is passed :-

(a) The Appeal from Order is dismissed.

(b) The Appellants shall vacate the premises within three weeks from the date of this order.

(c) The Corporation shall give no objection within 48

hours to the electricity and water supply department to re-connect the electricity and water connection for a period of three weeks from the date of this order.

(d) In the event the Appellants fails to vacate the premises within a period of three weeks from today, the Corporation is free to take action in accordance with law.

(e) The Corporation to adhere to the policy dated 25/05/2018 and all the other relevant provisions of law.

(f) Liberty is granted to the Appellants to apply in the event the name of any of the occupants are not reflected in the Area Information Statement.

8. Interim Application stands disposed of in view of dismissal of the Appeal.

PREETI
H JAYANI

(SMT. ANUJA PRABHUDESSAI, J.)

Digitally signed by
PREETI H JAYANI
Date: 2022.12.22
16:22:46 +0530