

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1506 OF 2021

Rashik Valji Boricha & Ors.

.. Petitioners

v/s.

Municipal Corporation of

Greater Mumbai & Ors.

.. Respondents

INTERIM APPLICATION NO.407 OF 2021

WITH

INTERIM APPLICATION(L)NO.28668 OF 2022

IN

WRIT PETITION NO.1506 OF 2021

Mr. Karl Tamboly a/w Ms. Neha Shah i/b. M/s. Vimla & Co. for the petitioners.

Ms. Sheetal Metakari i/b. Mr. Sunil Sonawane for the respondent nos.1 to 3.

Ms. Mily Ghoshal & Ms. Ritika Vijan for respondent no.4.

CORAM : R.D. DHANUKA &

KAMAL KHATA, JJ.

DATED : 4TH OCTOBER,2022.

P.C. :

1. Time to carry out amendment as granted by order dated 29th

September, 2022 is extended by three days from today.

Re-verification is dispensed with. Amendment shall also be

Digitally
signed by
SANDHYA
BHAGU
WADHWA
Date:
2022.10.07
11:06:08
+0530

carried out in the copies of the respondents' Advocate simultaneously.

2. Mr. Tamboly, learned counsel for the petitioners undertakes, on instructions, that his clients would vacate and handover possession of the offending structure in their possession viz. Gala no.4, plot no.2, building no.2, Udyog Nagar, Goregaon(W), Mumbai-400104 to respondent no.4 without fail. Undertaking is accepted.
3. The Municipal Corporation is directed to take measurements of the said Gala in presence of the petitioners as well as the authorized representative of respondent no.4. A copy of the measurements sheet shall be handed over to both the parties by the Municipal Corporation.
4. It is made clear that the petitioners would be handing over the possession of the said Gala to respondent no.4 in view of the action initiated by the Municipal Corporation under Section 354 of the Mumbai Municipal Corporation Act, 1888. The rights of the petitioners claimed in the said Gala against the respondent

no.4, if any, are protected.

5. It is made clear that if the petitioners do not handover the vacant possession of the said Gala to respondent no.4 within two months from today, the respondent no.4 would be at liberty to take forcible possession of the said Gala from the petitioners or any other person found in possession thereof, and if necessary with the assistance of Police.
6. It is made clear that if the petitioners continue to occupy the said Gala during the period of these two months, if any untoward incident occurs, the petitioners would not hold any of the respondents responsible.
7. Writ petition is disposed off in aforesaid terms.
8. No orders as to costs.
9. Parties to act on the authenticated copy of this order.
10. Learned counsel for respondent no.4 states that his client would demolish the entire building within four weeks from the date of the petitioners handing over the vacant possession of the

offending Gala. Statement is accepted.

11. It is made clear that if the respondent no.4 does not carry out demolition of the offending Gala within four weeks from the date of the petitioners handing over the possession of the offending Gala to the respondent no.4, the Municipal Corporation would be at liberty to demolish the entire building in pursuance of the action initiated under Section 354 of the Mumbai Municipal Corporation Act at the cost of respondent no.4, if any.
12. The factum of handing over the possession of the offending Gala by the petitioners shall be communicated not only to the respondent no.4 but also to the Municipal Corporation.
13. In view of the disposal of the writ petition, Interim Applications also stand disposed off.

(KAMAL KHATA, J.)

(R.D.DHANUKA, J.)