

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INTERIM APPLICATION NO. 3183 OF 2022

IN

WRIT PETITION NO. 644 OF 2021

Asia Publishing House Private LimitedApplicant

IN THE MATTER BETWEEN

Asia Publishing House Private Limited Petitioner

VERSUS

**The Board of Trustees of the
Port of Mumbai** Respondent

Mr.Chirag Mody, i/b. Mr.Joaquim F.Fernandes for the
Applicant/Petitioner.

Mr.Roop Basu, i/b. M/s.The Law Point for the Respondent.

**CORAM: R. D. DHANUKA AND
M.G.SEWLIKAR, JJ.**

DATE : 15th JULY, 2022

P.C:-

By this interim application, the applicant (original petitioner) seeks permission to carry out the structural repairs to the building in terms of the structural audit report dated 9th July, 2018.

2. By order dated 6th May, 2022 passed by this Court in Writ

Petition No. 644 of 2021, this Court permitted the petitioner to carry out the tenantable repairs to the building and had appointed M/s.Shetgiri and Associates, Architect/Structural Engineer to oversee and monitor the tenantable repairs of the building.

3. M/s.Shetgiri and Associates submitted a report annexed at Ex.B to the petition opining that the structural repairs should be carried out immediately as per the directions and under the supervision of registered technical team since carrying out tenantable repairs would not add any fresh lease of life to the building structure and on the contrary exert additional live load onto the structural frame causing further damage, distress and deterioration of the RCC framework especially the slabs, beams and the coloums and ultimately to the foundations of the building.

4. Mr.Mody, learned counsel for the petitioner on instruction states that his client is ready and willing to carry out the structural repairs as advised by M/s.Shetgiri and Associates at its own cost. He further states that his client has no objection if M/s.Shetgiri and Associates supervises the work of structural repairs as may be carried out by the

petitioner at the cost of the petitioner.

5. Learned counsel for the petitioner states that in furtherance of the report submitted by M/s.Shetgiri and Associates, his clients have obtained a structural audit report of the writ building from MS Consultants & Engineers Private Limited annexed at Ex.2 to the additional affidavit filed by his client and would submit that the said Consultants have opined that various structural repairs will have to be carried out in the writ building. The said report is accepted.

6. Learned counsel for the respondent has no objection if the petitioner carries out structural repairs in accordance with the recommendations made by M/s.Shetgiri and Associates and now opined by MS Consultants & Engineers Private Limited recommending various steps to be taken for carrying out structural repairs at the cost of the petitioner. Statement is accepted.

7. In view of the statement made by the learned counsel for the respondent, we pass the following order :-

(a) The petitioner is directed to expeditiously carry

out the structural repairs to the building in question in accordance with the recommendations made by M/s.Shetgiri and Associates and the structural audit report submitted by MS Consultants & Engineers Private Limited on 4th July, 2022 at its own cost.

(b) Upon completion of such structural repairs, the petitioner to submit a certificate of the structural audit to the respondent certifying that the structural repair is completed by the petitioner and that the building is in sound condition within two weeks from the date of completion of structural repairs.

8. Learned counsel for the petitioner has no objection to appoint M/s. Shetgiri and Associates to supervise the work of structural repairs at its own cost. Statement is accepted.

9. It is made clear that this order is passed without prejudice to the rights and contentions of both the parties and would not affect the existing claim made by both parties against each other.

10. Interim application is disposed off accordingly. No order as to costs.

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

[M.G.SEWLIKAR, J.]

[R. D. DHANUKA, J.]