

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

WRIT PETITION NO.1212 OF 2017

Dinesh Vijayshankar Shukla and ors. : Petitioners.
Versus
Mumbai Municipal Corporation and ors. : Respondents.

WITH
WRIT PETITION NO.792 OF 2017

Abhi Builders & Developers : Petitioners
versus
Municipal Corporation for Gr. Mumbai
and ors. : Respondents.

Mr. Ashish V Mishra a/w Mr. Vishnudutt Mishra for the Petitioners in Writ
Petition No.1212 of 2017.

Mr. Vinod S Pandey i/by Mr. S U Pandey for the Petitioners in Writ Petition
No.792 of 2017

Mr. Shailesh S Pathak a/w Mrs. Vandana Mahadik for the Respondents-MCGM

CORAM : S. V. GANGAPURWALA &
ARIF S. DOCTOR, JJ.

DATED : 24th NOVEMBER 2022

P.C.

1 Writ Petition No.1212 of 2017 is filed by the persons claiming to
be tenants. Writ Petition No.792 of 2017 is filed a person claiming to be the
owners, builders and developers.

2 In Writ Petition No.1212 of 2017 the notice issued by Respondent
No.2 therein is assailed. Under the said notice the occupiers in the building

were directed to vacate as the repairing of the building had not commenced.

3 In Writ Petition No.792 of 2017 the relief is claimed that erroneously permission is issued to carry out repairs and that municipal commissioner has erroneously granted extension of time to carry out repairs to the occupiers.

4 During pendency of the writ petitions co-ordinate bench of this Court on 24th June 2022 directed the municipal corporation to depute a senior engineer so as to visit the site and to make a report as to whether the tenants have carried out any repairs on the writ building and if so, to what extent and whether the repairs are in compliance with the order passed by the Technical Advisory Committee followed by permission granted by the municipal corporation or not.

5 It is submitted by the learned counsel for the corporation that pursuant to the order of this Court dated 24th June 2022 the site visit was conducted and it is observed that the tenant has not completed the proposed repair work as proposed by TAC committee. Tenant has not obtained completion certificate from the Executive Engineer (B.P) WS-II R Ward. The present status of the building cannot be ascertained by the visual observation made. It is further opined by Designated Officer & Executive Engineer, (B & F)

R/South Ward that fresh structural audit report is required to ascertain/classify the building.

6 The corporation shall get fresh structural audit conducted and pursuant to the report of the fresh structural audit shall take further steps for classifying the building. The costs for the conduct of structural audit shall be borne by the owner.

7 The parties may take further steps pursuant to the fresh structural audit report in accordance with law.

8 The learned counsel for the occupiers/tenants submits that the building is in a habitable condition. Naturally the occupiers/tenants would be occupying the same at their own risk.

9 The corporation shall communicate to the owner the amount to be deposited towards structural audit within one week. The owner shall deposit the said amount towards structural audit within a period of two weeks from the date of communication to it. The structural audit shall be conducted as expeditiously as possible and preferably within a period of six weeks from the date of deposit of costs for the conduct of structural audit.

10 Pursuant to the report received of the fresh structural audit, further steps may be taken by the parties in accordance with law expeditiously.

11 Writ Petition is disposed of. No costs.

[ARIF S. DOCTOR, J]

[S. V. GANGAPURWALA, J]