

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 532 OF 2023

Janta Housing Pvt. Ltd. through ... Petitioner
authorised Signatory

V/s.

State of Maharashtra through ... Respondents
Government Pleader and Ors.

Mr. Surel Shah a/w. Mr. Pratibha Rupnawar a/w Ms. Mansi Jain i/by
Samatva Legal Associates for Petitioner.

Ms. R.M. Shinde-AGP for respondent no.1-State.

Mr. Mayuresh Lagu for respondent nos. 2 to 5-Corporation.

Mr. Rushabh Sheth with Mr. Srividya Venkataraman i/by V.R. Juris for
respondent no. 6.

**CORAM : SUNIL B. SHUKRE &
M.W. CHANDWANI, J.J.**

DATE : 13TH JANUARY 2023.

P.C. :

. Heard.

2. Rule. Rule made returnable forthwith heard finally by
consent of the parties.

3. This petition has been filed by the petitioner showing his
willingness to take possession of the ground floor of building for Fire
station. It is the contention of the learned counsel for the petitioner

that as per the sanctioned plan, the ground floor is reserved for Fire station and parking, while first floor is for Community Prayer Hall and second floor is also for Community prayer hall together with one bed room.

3. Learned counsel for the petitioner further submits that the petitioner has already shown his willingness to handover possession of the entire ground floor to the Corporation which is meant for being used as a Fire station, but, the Corporation has not taken any steps in that regard and now the Corporation has issued notice to the petitioner that they would takeover forcible possession of not only the ground floor but also first and second floor.

4. Learned counsel for the Corporation states that the entire building is meant for fire station and if sanctioned plan shows that on first floor there is a prayer hall-cum-rest room and on the second floor there is another community hall together with bed room, these amenities on first and second floor are meant for the staff of Fire station, which submission is disputed by the learned counsel for the petitioner.

5. It appears that there is a dispute regarding the user of first floor and second floor of the building in question and we are of the opinion that this dispute would have been appropriately resolved by the Commissioner of Corporation after hearing the petitioner and the occupants of first and second floor of the building in question. But, till that happens, the possession of ground floor of the building being

handed over to the Corporation can be allowed to be taken.

6. Therefore, partly allowing the petition. We, direct the Corporation Authorities to takeover the possession of the entire ground floor of the building in question and issue possession receipt thereof to the Petitioner. We, further direct the Municipal Commissioner to decide the dispute regarding the purpose and user of first and second floor of the building in question after hearing the petitioner and considering the sanctioned plan and other relevant matters, in accordance with law.

7. Rule is made absolute in the above terms. In case the decision taken by the Commissioner is adverse to the petitioner, same shall not be implemented for two weeks from the date of the decision.

(M.W. CHANDWANI, J)

(SUNIL B. SHUKRE, J)