

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 106 OF 2023
IN
APPEAL FROM ORDER NO. 193 OF 2021

Shantilal Mehta (Decd.) through LRs Nitin ... Applicants
Navinchandra Mehta & Ors

Versus

The Municipal Corporation of Greater Mumbai & Ors. ... Respondents

Mr. Samir Sarambalkar for the applicants.

Mr. Kalpesh Joshi a/w. Ms. Nisha Shah i/b. Kalpesh Joshi Associates for
the respondents.

CORAM: G. S. KULKARNI, J.
DATED: 5 January 2023

P.C.

1. Not on board. Upon mentioning, taken on board on a praecipe as moved on behalf of the applicants.

2. The application is moved for extension of time upto 15 February, 2023 to vacate the premises. In paragraph 13 of the order dated 7 October, 2022 passed by the co-ordinate Bench of this Court, the appellant was granted time of three months from the date of the said order to vacate the said premises subject to an undertaking being furnished by the appellant. Paragraph 13 of the said order is required to be noted, which reads thus:

“13. Earlier it was submitted by learned counsel for the appellants that since 2014 when the notice was issued under section 354 of the said Act, the building still stands and it only need repairs. After I expressed my view, it is submitted on instructions that some time may be granted to the appellants to vacate the suit premises. In case the appellants to file an undertaking within two weeks from today that

within three months from today they will vacate the premises, no further action pursuant to Section 354 notice be taken for a period of three months from today. It is made clear that the appellants will reside in the structure at their own risk as to the consequences in the event any mishap happens. In the meantime, the Corporation and the owner to ensure that there are proppings in place to protect the structure.”

3. The contention as urged on behalf of the applicant is that the applicant despite best efforts could not locate alternate premises, hence an extension be granted till 15 February, 2023.
4. It is pointed out on behalf of respondent no. 5 that there are 3 to 4 occupants who have also not vacated the premises.
5. In these circumstances, on the same terms and conditions as observed by this Court in paragraph 13 of the order dated 7 October, 2022, time to vacate the premises is finally extended upto 15 February, 2023.
6. It is clarified that there shall not be a further extension. In the event, the premises are not vacated by the appellant till 15 February, 2023, the respondents are permitted to take appropriate action as may be permissible in law. Let an undertaking to vacate the premises by the appellant till 15 February, 2023 be placed on record within one week from today.
7. Interim Application is accordingly disposed of.

(G. S. KULKARNI, J)

Corrected as per the order of speaking to minutes dated 15 March, 2023.