

Varsha

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15202 OF 2023

Prem Plywoods Through Its Partner Vinod P Shah ...Petitioner

Versus

Panvel Municipal Corporation through its Commissioner & Anr ...Respondents

Mr Kishor Patil, with Akshay Pansare, Dhruv B Jain, i/b Manish Bohra, for the Petitioner.

Mr Jagdish G Aradwad (Reddy), for Respondent Nos. 1 & 2.

Mr Roshan Ramakant Mali, Ward Officer, Prabhag Samiti-D-PMC is present.

**CORAM G.S. Patel &
Kamal Khata, JJ.**

DATED: 5th December 2023

PC:-

1. Mentioned out of turn.
2. The Petition is filed by an occupant of commercial premises in a building that is said to be spread over several plots including plot Nos 1251, 1251/1, 1251/2 and 1251/3 in Panvel. Paragraph 2 (ii) of the Petition mentions the name of the owner of the building, the Panvel Dawoodi Bohra Masjid and Cemetery Trust. Yet that entity is not joined as a Respondent to the Petition.

3. On behalf of the Petitioner, it was repeatedly argued that without any survey of structure the building is proposed to be demolished. No visit was ever made, we were told. On this representation, the matter was sought to be mentioned for circulation and a priority listing at least twice earlier and was then mentioned out of turn.

4. We now find this representation to be entirely correct as pointed out by Mr Reddy who appears for the Panvel Municipal Corporation (“**PMC**”). He shows us the original file which the Ward Officer, Mr Roshan R Mali, has brought with him to Court. A structural report that was carried out as long ago as September 2022. It notes that the structure is in a C1 (extremely dangerous and dilapidated) category. Non-destructive tests showed that there was massive deflection in critical structural members such as beams. The entire timber frame portion of the structure is damaged. There was excessive water retention in the timber. The observations were that the building had not been maintained. The file has photographs of the building showing the damage.

5. Immediately an attempt is now made to say that the Panvel Municipal Corporation file relates to some other structure and that the Petitioner’s structure is at the front of the structure that is mentioned by the PMC.

6. Unfortunately for the Petitioner, the PMC file contains photographs and at least one exterior photograph corresponds almost exactly to the photographs in the Petition itself. It is pointless

to contend that the Petitioner's portion of the same structure is structurally sound, but the rest may not be. Obviously the entire attempt was to obtain orders of the Court without notice to the owners of the property and without any regard to the consequence of a collapse, most especially the consequences to others.

7. We have no hesitation in rejecting the Petition.

8. There will be no order as to costs.

(Kamal Khata, J)

(G. S. Patel, J)