

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1222 OF 2022

Rajesh Keshavji Gothi

...Petitioner

Versus

Mumbai Building Repairs and Reconstruction Board & Ors ...Respondents

Mr Vaibhav Mehta, with Mitaali Shah, i/b Vaibhav Mehta & Associates, for the Petitioner.

Mr Pankaj G Jain, with Rounak Maniyar, for Respondent No. 7.

Mr Mayur V Faria, for Respondent No. 10.

Mr Himanshu Takke, AGP, for the Respondent-State.

Ms Manisha Jagtap, with Karan Rasane, for the Respondent-MHADA.

CORAM G.S. Patel & Neela Gokhale, JJ.

DATED: 20th April 2023

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1. There is absolutely no urgency in the matter. The Petitioner has recently acquired the property in question. This is at Perin Nariman street in Fort. The Petitioner has not only moved against various occupants in the Court of Small Causes but now claims that the entire structure is dilapidated and that he has notices from the Municipal Corporation of Greater Mumbai ("MCGM"). He claims to be entitled to carry out essential repairs but says that he is being obstructed by various occupants including the private parties arrayed as Respondents Nos. 6 to 10.

2. In disputes like this, we are not concerned with the private disagreements between the Petitioner and individuals. That is not the purpose of a writ action. Clearly, the entire action is not directed against Maharashtra Housing and Area Development Authority (“**MHADA**”) except for the limited purpose that MHADA has granted the No Objection Certificate (“**NOC**”).

3. Prayer clause (a) at page 46 makes this very clear because the first writ that is sought is against the private individuals, Respondents Nos. 6 to 10. Then prayer clause (b) is a barely disguised prayer also directed against the private individuals but now requiring MHADA to remove the private individuals.

4. The Petition is prima facie a complete abuse of the process of the Court. These are civil disputes and it is open to the Petitioner to pursue his remedy in a Court of competent civil jurisdiction. We refuse to entertain disputed questions of facts especially as to structural conditions of buildings and competing structural reports. There is no substantive legal right that is sought to be enforced against MHADA and there is no substantive legal obligation of MHADA that is invoked either.

5. The Petition is rejected. It is open to the Petitioner to pursue alternative remedy. All contentions are kept open.

(Neela Gokhale, J)

(G. S. Patel, J)