

Wadhwa

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 714 OF 2023**

Ami Housing Ltd ...Petitioner
Versus
The Commissioner,
The Municipal Corporation of Greater Mumbai
& Ors ...Respondents

**WITH
INTERIM APPLICATION (L) NO. 24706 OF 2022**

**Mr Sanjeev Sawant, with Heramb Kadam, Ms Samiksha, Bhavna
Umredkar, for the Petitioner/Applicant.**

**Mr Mayur Khandeparkar, with Enait Shaikh i/b Asutosh Shukla, for
Respondents Nos. 4a to 4d.**

Mr Jitendra Gautam, for Respondents Nos. 5, 10 and 11.

Mr PR Moses, for Respondent No. 6.

Mr Rekha Musale, i/b Anil Joshi, for Respondent No. 12.

Ms Pooja Yadav, for the Respondent-MCGM.

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

DATED: 4th September 2023

PC:-

1. This is an entirely private dispute between the Petitioner, which is the owner/developer of a property at village Kirol, Ghatkopar, and several tenants. Mr Sawant for the Petitioner

says that six of the original 48 tenants are holding out for additional or special benefits. He has a particular word he uses to describe this action of the tenants. But that is entirely in the realm of private contractual negotiations and does not involve the Municipal Corporation of Greater Mumbai (“MCGM”) as an instrumentality of the State in any way. It is not possible for us in exercise of our writ jurisdiction to enter into these disputes.

2. This is *inter alia* evident from a look at the prayers. Prayer clause (a) proceeds on the assumption that the structures in question are dilapidated. This is by no means an accepted position. According to Mr Khandeparkar, there is material to show that the Petitioner itself had once, though some time ago, accepted that these structures are not dilapidated nor dangerous. Prayer clause (c) proceeds on an identical footing and apprehends a loss of life and property because of the assumption that the structures are dilapidated. Prayer clause (b), to our mind, is so vaguely worded that it is bound to lead not only to further litigation but untold confusion on its own.

3. Above all, there is the undeniable fact that there are civil suits filed. The MCGM has issued notices under Section 351. Civil courts have granted a stay. It is pointless now to say that in the Writ Petition the owner/developer seeks reliefs in respect of some other portions that are not covered by the civil suits. It is impossible to make this kind of a distinction meaningfully or to compel the MCGM to take this kind of a fragmented action, partly stayed by the Civil Court and partly compelled by this Court by mandamus.

4. It is always open to the Petitioner to make whatever application it wants in the civil proceedings or to adopt fresh proceedings whether in a civil court or in a court of special jurisdiction like the Court of Small Causes at Mumbai. We have nothing to say in that regard and those proceedings may be adopted on merits with all contentions being expressly kept open.

5. The Petition is rejected. There will be no orders as to costs.

(Kamal Khata, J)

(G. S. Patel, J)