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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8165 OF 2024**

Zulekha Bano Shamsuddin Ansari & Ors ...Petitioners

Versus

State of Maharashtra through GP & Ors ...Respondents

Mr Uzair Z Kazi, *with hamza Tatli, Javita Piereira i/b YMK Legal,*
for the Petitioner.

Mr NR Bubna (Online), *for the Respondent-Corporation.*

Ms Devyani Deshmukh, *for Respondent No. 1-State.*

**CORAM Kamal Khata &
 Rajesh S Patil, JJ.
 (Vacation Court)**

DATED: 7th June 2024

PC:-

1. This Petition can be disposed of by this order.

2. The Petitioners are owners of their respective units and occupants of the building namely Nazia Palace, a ground plus 3 storey structure situate at Bhiwandi Nizampura, Gass Bazar, Bhiwandi, Thane 421302.

3. Mr. Kazi for the Petitioners submits that the Petitioners desire to repair the building however the Bhiwandi Nizampur Municipal Corporation (BNMC) have laid down irrelevant conditions in the repair permission granted on 6th July 2023. On 12th July 2023 a notice was issued to all occupants to vacate the premises stating that the building is in dangerous condition. He

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submits that since the Petitioners did not have the means and sufficient resources they did not vacate. The Petitioners have now come to Court as on 24th May 2024 the BNMC issued a notice to vacate the building and pursuant thereto disconnected both water supply and electricity. He submits that the Petitioners thus seek some time to vacate and restoration of water and electricity.

4. Mr Bubna the Corporation (Respondent No2) points out that the building is C-1 category and deserves to be vacated immediately to avoid loss of life and property. He draws our attention to this Court's order dated 14th July 2023 in Civil Writ Petition No 7824 of 2023 at page 92. At page 93 he submits that this Court observed that the recommendations of VJTI (relied upon by the Petitioners) required evacuation of the entire building to carry out repairs in an effective manner to rule out any accidents due to negligence of workers. Petitioners had given an undertaking to this Court that they would vacate and upon vacating the BNMC would grant necessary permission to carry out repairs. He submits that despite the order the Petitioners have failed to vacate. He submits that the BNMC are still willing to consider their application for repairs if made and pass appropriate orders.

5. Mr Kazi agrees that the Petitioners would make an application to the Corporation.

6. We accordingly pass the following order:

7. The Petitioners are to make an Application to Respondent No. 2 for the repair of the building through a qualified architect as required by the BNMC and in accordance with the law by 14th June 2024.

8. The BNMC shall communicate their requisitions, if any, within a period of two weeks of the application if made by the Petitioners. The Petitioners shall comply with the requisitions within a week.

9. It is clarified that the above process would not entitle them to continue to occupy the building on account of the undertaking given by the Petitioners to this Court on 14th July 2023. The Petitioners are ex facie in breach of their own undertaking. They will unconditionally vacate the building by 21st June 2024.

10. Needless to say, that the Petitioners continue to occupy the building at their own risk as to cost and consequences and no one else except them shall be responsible for any loss or damage that may arise.

11. Petition is disposed of.

12. All concerned to act on authenticated copy of this order.

(Rajesh S Patil, J)

(Kamal Khata, J)