

Ganesh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
WRIT PETITION (L) NO. 38407 OF 2022  
WITH  
INTERIM APPLICATION NO. 568 OF 2023  
IN  
WRIT PETITION (L) NO. 38407 OF 2022**

Rajeev Omprakash Khandelwal ...Petitioner  
*Versus*  
Municipal Corporation of Greater Mumbai & Ors ...Respondents

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**Mr Gurubala Birajdar**, *for the Petitioner in WP(L)/38407/2022 for the Petitioner.*

**Mr Kunal Waghmare**, *for the Respondent – MCGM.*

**Mr Mayur Khandeparkar (Online)**, *with Y Tiwari, Pulkit Tyagi, Bishwajeet Mukherjee, Mani Vishwakarma & R Shrimal, for Respondent No 4.*

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**CORAM    G.S. Patel &  
              Kamal Khata, JJ.  
DATED:    11th March 2024**

**PC:-**

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1.        The Petition is listed at the instance of the Respondents and rightly so. On 19th December 2022, a Division Bench of this Court passed an order noting the submission of the Petitioner that power supply had been cut. The 4th Respondent argued that the

Petitioner's premises were locked and were not in use. The Petitioner said that they were being used for commercial purposes. No permissions were shown to the Court. The Petitioner undertook that until further orders, the premises would not be used and it would be kept in a locked condition. The Court noted that the Municipal Corporation had issued notices that the premises had become dangerous. Demolition action was being deferred only at the instance of the Petitioner. The Court noted that if any untoward incident took place it would be the sole responsibility of the Petitioner.

2. This is being construed as an ad interim injunction against demolition. It is not.

3. There is a subsequent order of 9th March 2023. That related to the removal of the Petitioner's belongings from the premises in question. The Court permitted the Petitioner to enter the premises to remove his belongings. Today, we are told that the belongings have been removed.

4. More disturbing is the fact that despite repeated notices of this Court that all Petitions filed before 2024 were to have their filing defects cured, office objections removed and corresponding final numbers obtained, in this Petition nothing at all has been done since December 2022. The Petition is still on a lodging number.

5. There is no question of continuing any ad interim protection, even assuming that one was granted or can be said to have been

granted by any previous order. In fact, there was no ad interim injunction. It appears that the mere pendency of this Petition is being used to stave off demolition of a dilapidated and dangerous structure. Now that the Petitioner's belongings have been removed, there is no impediment to the implementation of the municipal action.

6. The prayers of the Petition at pages 33 and 34 indicate that nothing survives in the Petition. The Petitioner claims to be a tenant. That tenancy is disputed. If the Petitioner succeeds in establishing the tenancy, such tenancy rights are fully protected in law. A dispute about tenancy is no reason to allow a dangerous and dilapidated structure to continue to stand.

7. The Petition is rejected. There will be no order as to costs. We have not granted or continued any protection to the Petitioner.

**(Kamal Khata, J)**

**(G. S. Patel, J)**