

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 13780 OF 2024

Gyasuddin Kifayatullah Zariwala ...Petitioner
Versus
Mumbai Building Repair And Reconstruction & Ors ...Respondents

Mr Akash Rebello, *with Manisha Gawade & YE Mooman, for the*
Petitioner.
Mr Akhil Kupade, *i/b Bushra Qureshi, for Respondent No. 4.*
Mr Naushad Engineer, *i/b GR Golatkar, for Respondents Nos. 5 to 11.*

CORAM M.S. Sonak &
Kamal Khata, JJ.
DATED: 2nd July 2024

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PC:-

1. Heard learned Counsel for the parties.
2. The Petitioners seek the following substantive relief in prayer clause (a) of the Petition. Prayer clause (a) read as follows:

“(a) This Hon’ble Court may be pleased to issue writ of certiorari or any other appropriate writ of like nature directing the Respondent No. 1 to 3 to transfer the NOC for repair of building No. 102-104-106 dated 29.9.2021 being Exhibit-A- in favour of the Petitioner or in the alternative the Petitioner be allowed to repair the building No. 102-104-106 as per the NOC for repair dated 29.9.2021 being Exhibit-A hereto on such terms and conditions as this Hon’ble Court may deem fit and proper.”

3. Learned Counsel for Respondents Nos. 5 to 11 (tenants) submits that though the NOC for repairs was obtained on 29th September 2021, now, the tenants, do not wish to undertake any repairs based on the said permission.

4. Considering the above statement, it would not be appropriate for us to direct any transfer of this repair NOC favouring the Petitioners.

5. However, the Petitioners are granted liberty to apply to MHADA for fresh permission to undertake repairs. If such application is made, the MHADA is directed to consider such application in accordance with law and on its own merits and expeditiously decide the same.

6. *“However, it is clarified that this order and the directions herein are without prejudice to the rights and contentions of all the parties in the context of notice under Section 79-A, if any, issued by the MHADA concerning the building in question. Further, it is clarified the MHADA should dispose of the Petitioner’s application for fresh permission to undertake repairs as expeditiously as possible. Further, we clarify that nothing in this order modifies order made on 2nd January 2024 in Writ Petition No. 3743 of 2023.”*

7. With the above clarifications and directions this Petition is disposed of.

8. All concerned to act on an authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)

Note: This order is modified as per order dated 25th July 2024. The corrections are shown in bold and italics.