

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.17701 OF 2024**

M/s. Kashi Dairy Farm
Through Radheshyam Sambhaji Pandey & anr. ...Petitioners
& ors. *Versus*
The Municipal Commissioner ...Respondents

**WITH
INTERIM APPLICATION (L) NO.19393 OF 2024
IN
WRIT PETITION (L) NO.17701 OF 2024**

Manjubharati Ghanshyam PandeyApplicant
W/o Ghanshyam Sabhajit Pandey

In the matter between

M/s. Kashi Dairy Farm
Through Radheshyam Sambhaji Pandey & anr. ...Petitioners
Versus
The Municipal Commissioner & anr. ...Respondents

Ms Archana P Gaikwad, for the Petitioner.
Ms Meena Dhru, for the Respondent-MCGM.
Mr Rishikesh Kekane, for Respondent No.4.
Mr Jitendra R Gautam, a/w Mr. Amit G Dubey for the Applicant in
Interim Application (L) No.19393 of 2024.

**CORAM M.S. Sonak &
Kamal Khata, JJ.**
DATED: 05th July 2024

PC:-

1. Heard learned counsel for the parties
2. The learned counsel for the Petitioners, based on instructions from the Petitioners, and the learned counsel for the 4th Respondent, based on instructions, consent to the Court making the following agreed order:-
 - (a) The Petitioners will vacate and hand over the peaceful possession of their tenements, i.e. Shop No.8 and Shop Nos.1A and 1B on the ground floor of Kashi Niketan Building, CTS No.846, M. G. Acharya Marg, Chembur, Mumbai – 400 071 to the 4th Respondent within a period of five days from today.
 - (b) The 4th Respondent commits and undertakes to give to the Petitioners alternate premises in accordance with their entitlements under the law within a reasonable period from the demolition of the structures vacated by the Petitioners.
 - (c) The statements made by the Petitioners and the 4th Respondent through their counsel are accepted as undertakings to this Court. Both these parties will have to comply with such statements and act accordingly.
3. The learned counsel for the Applicant in Interim Application (L) No.19393 of 2024 submits that the above tenements belong to a partnership firm of which he is one of the partners. Accordingly, he submits that the Petitioners are trying to mislead this Court. The disputes between the Applicant in the Interim Application and the Petitioners cannot be sorted out in these proceedings. Accordingly,

it is open to the Applicant to take out such proceedings as may be available to the Applicant under the law for sorting out such disputes. Nothing in this order would prejudice the interest of either the Applicant or the Petitioners if they embark upon any such proceedings before the appropriate forum.

4. Before we part, we must record the Petitioners' contention about the allotment of alternate premises on the ground floor. However, the learned counsel for the Petitioners was unable to point out any legal provision under which the Petitioners could insist upon allotment of alternate premises on the ground floor. Still, the learned counsel for the Petitioners submits that, if possible, the 4th Respondent must consider such allotment.

5. The suggestion made by the learned counsel for the Petitioners is reasonable. Therefore, we observe that in case circumstances permit, and it is possible, the 4th Respondent must consider such a request. However, we make it clear that this is not a direction of the Court. This is only a request to consider, if possible.

6. With the aforesaid directions, we dispose of this Writ Petition and Interim Application (L) No.19393 of 2024.

7. There shall be no order for costs.

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

(Kamal Khata, J)

(M.S. Sonak, J)