

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO. 5295 OF 2024****Bijal Chandrakant Shah & Ors.****... Petitioners****V/s.****The Municipal Corporation of Greater Bombay & Ors. ... Respondents**

Mr. Mayur Khandeparkar a/w Mr. Makarand Raut for Petitioners.
Ms. R.M. Hajare i/b Ms. Komal Punjabi for Respondent No.1-MCGM.
Ms. Uma Palsuledesai, A.G.P. for Respondent No.4-State.
Mr. Jayesh Gawde i/b Mr. Hardik Desai for Respondent No.6.
Mr. Rohan S. Ahire, Police Sub-Inspector, Malad Police Station, presnet.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

DATE : 19th December 2024.

P.C. :

1) By this Petition, the Petitioners, who are tenants of Respondent No.6 seek a Writ of Mandamus or any other appropriate Writ, direction or order in exercise of our powers under Article 226 of the Constitution of India, for directing Respondent Nos.1 to 5 to provide police protection to enable the Petitioners' contractors to complete the balance repair work of Bharat Niwas building as per the repair permissions dated 15th April 2024 and 30th April 2024 granted by Respondent No.3.

2) Present Petition came up for hearing on last occasion i.e. on

17th December 2024 and with a view to enable learned A.G.P. to take instructions from Respondent No.5, it was adjourned to today.

2.1) Today, the learned A.G.P. on instructions from Mr. Rohan S. Ahire, Police Sub-Inspector attached to Malad Police Station, Mumbai, submitted that, the designated officer of Respondent No.1 has erroneously filed an Application for police protection with the Senior Inspector of Police of Malad Police Station, Mumbai, instead of the Deputy Commissioner of Police (Operation).

2.2) Upon a query by the Court, the learned A.G.P. informed that, Respondent No.5 had not communicated about the erroneous application either to the Petitioners or Respondent No.1-MCGM till today. It is thus clear that, such a statement is made for the first time before this Court. It is evident to us that, Respondent No.5 instead of assisting Respondent Nos.1 to 3, who are the Statutory Authorities, has shrugged off its responsibility, thereby exposing the Petitioners before the Courts for inaction on its part. Making Respondent No.1 a scapegoat is certainly unacceptable to the Court.

3) Section 522 of The Mumbai Municipal Corporation Act, 1888 ("the MMC Act"), mandates the Police Commissioner by himself and through his subordinates to co-operate with the officers of the MCGM. Section 522(1) provides that, the Police Commissioner shall, as far as may be, co-operate, by himself and through his subordinates, with the Commissioner and the General Manager for carrying into the effect and enforcing the

provisions of the MMC Act and for maintenance of good order in Brihan Mumbai. Sub-section (2) of Section 522 specifies that, it shall be the duty of every police officer in Brihan Mumbai to communicate without delay to the proper municipal officer any information which he receives of a design to commit or of the commission of any offence against this Act or against any regulation by, by-law made under this Act and to assist the Commissioner, the General Manager or any municipal officer or servant, reasonably demanding his aid for the lawful exercise of any power vesting in the Commissioner, the General Manager or in such municipal officer or servant under this Act.

3.1) It is thus clear that, it is the bounden duty of the Police under this Section to co-operate and to provide necessary help to the officers of the MCGM in performing their lawful duty and enforcing the provisions of the MMC Act.

4) In view thereof, we direct the Joint Commissioner of Police (Law & Order), to provide necessary police protection to the Petitioners and also to the Officers of Respondent Nos.1 to 3 for effectively complying with the Order dated 30th April 2024, passed by Respondent No.3. Needless to mention that, necessary charges as per the law and the Rules framed thereunder, will be borne by the Petitioners for the said protection.

4.1) We expect from the Joint Commissioner of Police (Law & Order) not to further direct the Petitioners and/or Respondent Nos.1 to 3 to file

another Application with some other Authority/ies, which may cause further delay.

5) So far as the permissions to carry out repairs granted by the Order dated 30th April 2024 is concerned, we have been informed by the learned A.G.P that, the time period of six months has already lapsed.

5.1) With a view to balance equities and to meet the ends of justice, in exercise of our powers under Article 226 of the Constitution of India, we extend the said period for carrying out the repairs by three months from the date of uploading present Order on the official website of the Bombay High Court.

6) In view thereof, nothing further survives in the Petition at this stage. Petition is accordingly disposed off.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)