

Amol

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 2486 OF 2024
IN
WRIT PETITION (L) NO. 12410 OF 2022

Ramesh Harakchand Arora & Ors ...Applicants
In the matter between
Ramesh Harakchand Arora & Ors ...Petitioners
Versus
Municipal Corporation of Greater Mumbai & ...Respondents
Ors

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JADHAV

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Mr Karl Tamboly, with Aneesha Cheema & Priya for Applicant.
Ms S V Tondwalkar, for Respondent-BMC.
Mr J S Kini, i/b, Sapna Krishnappa, for Respondent No. 3.
Mr Amol A Thorat, AE (B&F) S Ward Presnet.

CORAM M.S. Sonak &
Kamal Khata, JJ.
DATED: 19 September 2024

PC:-

INTERIM APPLICATION NO. 2486 OF 2024

1. Heard the learned Counsel for the parties.
2. We have perused the Interim Applications, and the reasons set out therein constitute sufficient cause for recalling

our self-operative order dismissing the Petition for non-clearing the office objections.

3. Accordingly, the order dismissing the Petition for non-clearing office objections is recalled, and Writ Petition (L) No.12410 of 2022 is restored. The registry must register this Petition by waving office objections, if any.

4. Interim Application (L) No. 2489 of 2024 is disposed of.

WRIT PETITION (L) NO. 12410 OF 2022

5. By a separate order, we have restored this Writ Petition.

6. After this matter was argued for some time, Mr Tamboli, learned Counsel for the Petitioner based on the instructions from the Petitioners (from the 1st Petitioner who is present in the Court and is a constituted attorney for other Petitioners), states that the Petitioners will remove the grill/gate/walls in the stilt area as well as the terrace and restore the premises as per the approved plan (u/no.CE/397/BPES/AS within two weeks from today. The Petitioners will also remove the material like bricks and refractory products, etc., stored in the stilt area within two weeks from today and file a compliance report before this Court and the BMC. A copy of such compliance report must be furnished to the Respondent No. 3 society before the same is filed in the Court or with the BMC. This statement is accepted as an undertaking on behalf of the petitioners, and the petitioners will have to comply with the same.

7. Mr Tamboly states that the Petitioners have already submitted the Structural Audit report as directed by Clause (b) of the impugned order dated 6 April 2022.

8. Mr Tamboly states that after complying with Clause (a) of the impugned order dated 6 April 2022, i.e., removal of grill/gate/walls, etc., the Petitioner will apply to the BMC for permission to put up protective measures as would be permissible under the law. Suppose the Petitioners comply with their statements, which are now accepted as undertakings to this Court within two weeks. In that case, the BMC is directed to dispose of the applications for permission that they make as expeditiously as possible and, in any event, within six weeks of making such applications complete in all respects.

9. The BMC should hear the Petitioners and third Respondent before the Petitioners' applications are decided. A reasoned order should be communicated to both parties. All contentions of all parties are left open.

10. Regarding access and use issues to the stilt area or terrace, we are informed that the 3rd Respondent Society has filed SC Suit No. 640 of 2013 before the City Civil Court, Bombay. Accordingly, such issues will have to be sorted out in the said Civil Suit or in the Interim Applications that the parties may choose to file in the said civil suit. Nothing in this order needs to influence the Civil Court in deciding such matters on their own merits and by following the law. Again, all parties' contentions in Civil Suit are also left open.

11. Since the challenge in this Petition was to the impugned order dated 6 March 2022 and the Petitioners, without prejudice, are complying with the directions in the impugned order, nothing further survives in this Petition, which is accordingly disposed of.

12. There shall be no order for costs. All concerned to act on an authenticated copy of this order.

13. The compliance report must be filed in this Court and served on 25 November 2024.

14. List this matter to consider the compliance report on 28 November 2024.

(Kamal Khata, J)

(M.S. Sonak, J)