

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6471 OF 2024

Amit Balkrishna Waray ...Petitioner
Versus
Commissioner Nashik Municipal Corporation & Ors. ...Respondents

Mr. Shriram Kulkarni a/w Gaurav Ugale for the petitioner.
Mr. Shridhar Patil a/w Ashok Singh for Respondent Nos.1 to 3.
Ms. M. P. Thakur, AGP for State – Respondent No.4.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

DATE: 29 JULY 2025

P.C.

1. We have heard Mr. Kulkarni, learned counsel for the petitioner, Mr. Patil, learned counsel for respondent Nos.1 to 3 and Ms. Thakur, learned AGP.
2. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:

“a. Be pleased to direct the respondent Nos.1 & 2 to approve the plans submitted by the petitioner for reconstruction on the basis of the decree passed in Special Civil Suit No.255 of 2004 and grant permission to demolish existing structure and to redevelop/reconstruct the building/ flats situated at Survey No.699/1/7, plot no. 7 in final layout plot no/.427 at Gangapur Road, Nashik.”

3. We find that the building/construction in question was already issued a notice dated 5 April 2024 under the provisions of Sections 264, 265 & 266 of the Maharashtra Municipal Corporation Act, 1949 by respondent No.1 – Nashik Municipal Corporation declaring the building to be dangerous and granting permission to pull-down the same.
4. We are informed by Mr. Kulkarni that the building is still standing and as there are other co-owners, who are also member of the petitioner’s family, (although not before the Court), further action of demolition has not been taken.

5. In our opinion, considering the peculiar facts of the case, the petitioner as also the other members of the family who have already vacated the premises are required to take an appropriate view of the matter and remove/demolish the building. It would also be in their interest to file a composite and a consensual proposal for redevelopment of the building so that all of them are ultimately benefited and re-housed, in the redeveloped premises. We keep open all such contentions of the petitioner and the other family members/owners in that regard.

6. Insofar as the Municipal Corporation is concerned, it shall ascertain the position in respect of the said building and appropriate action in accordance with law would be required to be taken, if the building has become dangerous and is likely to be a threat to the lives of third parties.

7. Let a decision in that regard be taken within one week from today. All contentions of the parties in that regard are also expressly kept open.

8. The petition is accordingly disposed of, however, without delving on the several contentions which are urged on behalf of the petitioner, as also on behalf of the respondents and on the aforesaid limited observations, keeping open all contentions of the parties, on all the issues, which are raised in the present petition.

9. At this stage, we also note the contentions as urged on behalf of the learned counsel for the Municipal Corporation that in the event of any development proposal is to be received, it has to be a proposal which would be required to be submitted by consent of all the owners of the property, which would include the petitioner and the other co-owners.

10. Disposed of in the aforesaid terms. No costs.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)