

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11501 OF 2024

Jasoda Arvind Bhanushali & Ors. ...Petitioners
Versus
Kalyan Dombivli Municipal Corporation & Ors. ...Respondents

Mr. Sumedh S. Modak for Petitioners.

Mr. Sarang S. Ardhye a/w Ms. Gauri Velankar for Respondent No. 1.

Ms. Tanu N. Bhatia, AGP for Respondent No. 2.

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

DATE: 11th JUNE 2025

P.C.

1. By the present Petition filed under Section 226 of the Constitution of India, the Petitioners seek the following limited relief:

“(b) This Hon’ble Court be pleased to issue writ of mandamus or any other writ, order or direction in the nature of writ of mandamus, thereby directing the Respondent No. 1 to decide the representation dated 19.04.2024 [Exhibit – “E” Collectively], filed by the Petitioners before the Respondent No. 1, in a time bound manner, within such stipulated period as may be decided by this Hon’ble Court.”

2. Heard Mr. Modak, learned Counsel for the Petitioners.

3. Mr. Modak submits that the Petitioners are the tenants of two buildings known as Shivshanti and New Shivshanti (“the said buildings”) located on land bearing no. 69/8/P, Lane no. 3 Pendse Nagar, Dombivli (E), Dist. Thane (“the said land”).

4. Mr. Modak submits that the said land, along with the said buildings, was owned by one Smt. Jiubai Govind Gadhvi (original owner). He submits that after

the demise of the original owner, Respondent Nos. 3 to 9 have become the exclusive owners of the said land and the said buildings.

5. Mr. Modak then points out that Respondent No. 1 had, on 25th July, 2014, issued a notice under Section 264 of the Maharashtra Municipal Corporations Act, 1949 (“MMC Act”), declaring the said buildings as being in a highly dilapidated and ruinous condition. He points out that, post the notice, the Petitioners had filed two Civil Suits seeking a declaration with respect to their tenancy rights. He then pointed out that by a subsequent notice dated 6th June, 2016, issued by the MMC under Section 478 of the MMC Act, the Petitioners were called upon to vacate their respective premises, which was again challenged by the Petitioners by filing a regular civil suit in June, 2016. He submits that despite this, Respondent No. 1 proceeded to demolish the said buildings after informing the Petitioners that their tenancy rights would survive and that the Petitioners would be entitled to an area equivalent, if not more, upon redevelopment of the said land and said buildings being undertaken by the owners (Respondent Nos. 3 to 9).

6. Mr. Modak then points out that despite the long lapse of time, there were no steps taken by the owners to redevelop the said buildings, and thus the Petitioners filed an application under the provisions of the Right to Information Act, 2005 (“RTI Act”) to ascertain the progress of the redevelopment work on the said land, if any. He submits that on 28th February, 2024, the Petitioners obtained information that Respondent No. 1 had not granted any building permission in respect of the said redevelopment. It was in these circumstances that the Petitioners made a

representation to Respondent No. 1 dated 19th April, 2024, by which Respondent No. 1 *inter alia* sought permission for the reconstruction of the said buildings.

7. Mr. Modak placed reliance upon the Division Bench's Judgment of this Court in the case of *Chandarlok People Welfare Association Vs. State of Maharashtra*¹ in which he pointed out that this Court had recognized that the rights of tenants is preserved under Section 499 of the MMC Act and thus that the said application was made.

8. Having due regard to the submissions made by Mr. Modak and given the fact that (i) no redevelopment of the said buildings has been undertaken or even applied for by the original owner, (ii) the tenancy rights of the Petitioners are preserved, and (iii) the Petitioners have made an application for redevelopment, which has not been considered for well over year. We deem it appropriate and in the interest of justice to allow the writ petition by directing Respondent No. 1 to hear and dispose of by way of a detailed order, the representation dated 19th April, 2024 (Exhibit "E"-collectively)

9. We allow the Petition in terms prayer clause (b) with direction that the representation be heard and disposed of within a period of two months from today.

10. Disposed of. No costs.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)

¹ 2023 SCC OnLine Bom 2300