



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9996 OF 2025

Pushpanjali Co-op. Hsg. Society Ltd. ... Petitioner
Vs.
Vasai Virar City Municipal Corporation & Ors. ... Respondents

AND
WRIT PETITION NO. 9998 OF 2025

Deepanjali Co-op. Hsg. Society Ltd. ... Petitioner
Vs.
Vasai Virar City Municipal Corporation & Ors. ... Respondents

Mr. Abhijit P. Kulkarni a/w. Ms. Shweta Shah, Mr. Abhishek Roy, Mr. Shreyas Zarkar, Mr. Gaurav Sahane for the petitioners.
Ms. Swati Sagvekar for respondent no. 1.
Mr. Kaustubh Patil for respondent nos. 2, 5 and 6 in WP/9996/2025 and for respondent nos. 3 and 4 in WP/9998/2025.

CORAM: G. S. KULKARNI &
MANJUSHA A. DESHPANDE JJ.
DATED: 21 AUGUST, 2025

P.C.

1. These are two Writ Petitions where the reliefs which are prayed for by the petitioners-society are similar. For convenience, we note the reliefs as prayed for in Writ Petition No. 9996 of 2025, which reads thus:

“(a) That this Hon’ble Court may be pleased to issue a writ of mandamus or writ in the nature of mandamus or any other appropriate writ, order or direction under Article 226 of the Constitution of India directing respondent no. 1 to implement its notice dated 01/07/2025 (Exhibit ‘M’) and vacate the subject building, namely, ‘Pushpanjali’ which is declared as ‘C-1’ category dilapidated building;

(b) That this Hon’ble Court may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction, direct respondent no. 1 to immediately disconnect the water and electricity supply for the safety of public at large and to demolish the said

building, namely, 'Pushpanjali' which is declared as 'C-1' category dilapidated building;"

2. The case of the petitioners is that the buildings in question of the petitioners-society, namely, Building Nos. H-3 and H-4 of the Pushpanjali Cooperative Housing Society and Building Nos. H-1 and H-2 of the Deepanjali Cooperative Housing Society Ltd. situated at Diwan and Sons Housing, Enclave IV, Ambadi Road, Vasai (West), Taluka -Vasai, District Palghar, are now declared to be dangerous, classified in the C-1 category. Such categorization was made by the Municipal Corporation on 28 February 2025 by following due procedure. There was a dispute in regard to such categorization, as there were different structural audit reports. Accordingly, the Municipal Corporation had referred the issue to the Technical Advisory Committee (TAC). The TAC after following the lawful procedure, by an order dated 27 June 2025, confirmed that the said buildings of both these Societies have become dangerous and are dilapidated. In pursuance to the report/order of the TAC, respondent no.1-Municipal Corporation on 1 July 2025 issued notice to the petitioners-society calling upon the members of the petitioners to vacate their respective tenements, so that demolition of the dangerous buildings can be undertaken.

3. Needless to observe that once the buildings have been categorized as dangerous and which are likely to endanger the human lives, the authorities would be bound to comply with the directions of this Court in **High Court on its own motion (in the matter of Jilani Building at Bhiwandi) vs. Bhiwandi**

Nizampur Municipal Corporation & Ors.¹ wherein this Court has not only recognized the obligation on the part of the Municipal Corporation and its officials to take appropriate action of demolition so as to save the human lives but also have fixed accountability on the erring officials if they do not take timely action.

4. In both these petitions, it is not in dispute that the building has become dangerous and to that effect TAC report is already on record. From the record it appears that in view of this situation, the petitioner-societies have already taken a decision of the majority of its members, who are stated to be 87% and 92% respectively for redevelopment of the buildings in question and have already appointed a developer. However, it appears that the private respondents, who are the minority members, have certain issues in regard to the redevelopment and the decision taken by the majority members. It is for such reason, the petitioners allege that the private respondents are obstructing the demolition of the building and consequently the expeditious redevelopment. It is the petitioners' contention that such minority members would not have any legal right to endanger the lives of other members of the Society and/or even delay the redevelopment of the buildings. Such contention can certainly be supported considering the decisions of this Court in **Choice Developers vs. Pantnagar Pearl CHS Ltd. & Ors.**², which follows the decision of the Division Bench of this Court in **Girish Mulchand**

1 2022 SCC OnLine Bom 386

2 2022 SCC OnLine Bom 786

Mehta & Anr. vs. Mahesh S. Mehta³ as also the decisions of this Court in **M/s. Calvin Properties and Housing vs. Green Fields Cooperative Housing Society Ltd.**⁴; **Chirag Infra Projects Pvt. Ltd. vs. Vijay Jwala Coop. Hsg. Society Ltd. & Anr.** and **Kamla Homes and Lifestyle Pvt. Ltd. vs. Pushp Kamal Co-op. Hsg. Society Ltd. & Ors.**⁵. Similar view was also taken in **Westin Sankalp Developers vs. Ajay Sikandar Rana & Ors.**⁶ as also in **Sarthak Developers vs. Bank of India Amrut Tara Staff Co-op. Housing Society Ltd. & Ors.**⁷. Learned counsel for the petitioners would thus be correct in his contention that the minority members cannot stall the redevelopment or adopt an obstructive approach in the Municipal Corporation taking up further steps to demolish these dangerous buildings. On behalf of the Municipal Corporation, the learned counsel has made submissions that the Municipal Corporation is taking appropriate steps and in view of the approach of the non-cooperating members, it would require police protection.

5. Further, the learned counsel for the private respondents, who are alleged by the petitioners to be the obstructive members, are not disputing that the condition of the building is dangerous and the building would be accordingly required to be demolished. It is, however, contended that there are certain contentions in regard to the redevelopment, which these members intend to assert. If any such rights and contentions are being asserted by these minority members, they can be asserted only in a manner known to law before the

3 2009 SCC OnLine Bom 1986

4 2013 SCC OnLine Bom 1455

5 2019 SCC OnLine Bom 823

6 2021 SCC OnLine Bom 421

7 2012 SCC OnLine Bom 525

appropriate forum and in appropriate proceedings. However, such rights and contentions in no manner whatsoever can result in such obstructive approach and become counter productive to the redevelopment of the buildings, as decided by the majority members of the Society. Learned counsel for the private respondents, however, submits that such rights and contentions be expressly kept open to be asserted in appropriate proceedings. The request is reasonable. In our opinion, these members needs to cooperate in the demolition of these buildings by vacating their respective premises. Learned counsel for the private respondents submits that some time be granted in view of the ensuing Ganesh festival. We may also agree to such contention as urged on behalf of the private respondents, however, not unconditionally.

6. In the light of the aforesaid discussion, we are inclined to dispose of these petitions in terms of the following order:

ORDER

(i) The private respondents shall vacate their respective tenements within a period of two weeks from today, which shall be subject to an undertaking to be filed and placed on record of this Court by 26 August 2025, to the effect that these members shall unconditionally vacate their respective premises and not cause any obstruction whatsoever in the demolition of these buildings after 15 days from today. A copy of the same be furnished to the advocate for the petitioners, as also to the advocate for the Municipal Corporation

(ii) In the event, such undertaking is not placed on record and the aforesaid orders are not complied, the Municipal Corporation would be free to proceed in accordance with law to get the building vacated with police protection and demolish the building in question.

(iii) The Municipal Corporation shall accordingly exercise the work of demolition of the building, which shall be at the cost of the petitioners. The cost be accordingly recovered. All rights and contentions of the parties in regard to the issues of redevelopment are expressly kept open.

(iv) In the event, the developer appointed by the petitioners-society intends to undertake the demolition, he is free to do so after obtaining necessary permission from the Municipal Corporation and in accordance with law as may be permitted by the Municipal Corporation. All contentions in that regard are expressly kept open. It is for the members of the society to take decision in that regard and such decision be taken within 10 days from today and be informed to the Municipal Corporation.

(v) In the event, it is decided that the Municipal Corporation is to undertake demolition, we order that all the members shall cooperate in the demolition and if there is any confrontation/obstruction by any member, the Municipal Corporation is permitted to have police aid, which be made

available by the officer in-charge of the local police station.

7. The officer-in-charge of the police station shall act on authenticated copy of this order to be forwarded to him by the Deputy Commissioner of Municipal Corporation.

8. We clarify that except for whatever has been observed hereinabove, we have not delved in any other rival contentions between the Society and its members. All such contentions are expressly kept open.

9. The petitions stand disposed of in the aforesaid terms. No costs.

(MANJUSHA A. DESHPANDE ,J.)

(G. S. KULKARNI ,J.)