

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 3720 OF 2024

Mehul Jain & Ors. ...Petitioners
Versus
Municipal Corporation of Greater Mumbai and Ors. ...Respondents

Mr. Pravin Samdani, Senior Advocate a/w Mr. Amogh Singh a/w Mr. Santosh Pathak, Mr. Minish Lotlikar i/by Law Origin for Petitioners.

Mr. Joel Carlos, a/w Smt. K. H. Mastakar i/by Ms. Komal Punjabi for BMC.

Mr. Vijay Mankar, Asst. Engineer (Bldg and Factory) P/North Ward, present.

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

DATE: 16th JULY 2025

P.C.

1. This Petition under Article 226 of the Constitution of India is filed praying for the only substantive relief which reads thus :

“ a) This Hon'ble Court be pleased to issue writ of mandamus under Article 226 of Constitution of India or any other appropriate writ, order or declaring and quashing and setting aside the Impugned Notice (Exhibit A) which was issued on **non working Saturday** i.e. on dated 27th April, 2024 bearing No. PN/DO1PN/046/35 MMC ACT/PN 141N01/27-04-2024, issued U/s 354 of MMC Act by Respondent No.1 to 3 for pulling down the Structure standing on the said subject building comprising of Ground + 2nd Floor, RCC frame structure.”

2. The controversy revolves around a dilapidated industrial building, in regard of which action in accordance with law was initiated by the Municipal Corporation some time back. In such backdrop we had heard the learned counsel for the parties on 14th July, 2025, and passed the following order.

“1 Our attention is drawn by Mr. Carlos, learned counsel for the Municipal Corporation to the Petitioners' letter dated 19th April 2024, which is addressed to a Municipal Corporation about 14 months back, when at that point of time, the Petitioners requested the Municipal Corporation for 6 months time to vacate the dilapidated premises and take a decision on redevelopment. However, nothing has been done. When such categorical letter was addressed by the Petitioners or their co-operative society the Petitioners cannot take a position contrary to the said letter.

2 Mr. Carlos has also placed on record the photographs which show that the building is in a extremely dilapidated condition. It is stated that infact certain portions of the building have started falling. We note from the photographs that the condition of the building appears to be ruinous and it is the Petitioners' who are risking the lives of persons who are working in such commercial establishment the building houses. A position contrary to law cannot be taken by the members of the society, they are required to vacate.

3 Let instructions in that regard be taken by Mr. Singh learned counsel for the Petitioners. Also we permit the Municipal Corporation to place on record a short affidavit in respect of the condition of the building.

4 Accordingly list the proceedings on 16th July 2025. Till the adjourned date of hearing all the occupants of the building shall continue to occupy the premises at their own risk and consequences and shall not hold the Respondents and/or any other third parties liable for any civil or criminal action, in the event of any untoward incident of collapse of the building. They shall also be liable to any third parties who are unconnected with the building or passersby in the event of any untoward incident of collapse of the building.

5 We are also informed at this stage that the society intends to be impleaded as a Respondent as the present petition was filed by some of the members and on the ground that there was no elections of the Managing Committee. We permit the society to be impleaded as a Respondent in the present petition. Amendment to be carried out in the course of the day. Reverification is dispensed with. Amended petition to be served on all the parties.

6 Although, we are not inclined to continue the ad-interim orders which were granted by the Co-ordinate Bench of this Court, but only to enable the Petitioners and the members of the society to vacate the tenements, we continue such orders till the adjourned date of hearing. While accepting Mr. Singh's statement that whosoever is occupying the tenements shall continue to occupy at their own risk and consequences and as directed by us hereinabove. Such statement shall also be an undertaking to this Court.”

3. Mr. Samdani, learned Senior Advocate on instructions from Mr. Jatin Shah, Chairman, Mr. Vishal Gohil, Secretary and Mr. Romul Gandhi, Treasurer, who are present in the Court, has stated that within a period of one week from

today all the units/occupants of the building shall stop their activities and within a period of four weeks from today vacate the building and thereafter ensure it is demolished. He also states that, simultaneously and immediately the work of barricading of a permissible height would be undertaken so that there is a safety when the demolition work is undertaken. Mr. Samdani has also fairly stated that till such time the occupants from the building shall continue to occupy their tenements at their own risk and also shall be liable in the event of any untoward incident to third parties and shall not claim any authorities of the corporation in the event of any such untoward incident. We accept the statement as made by Mr. Samdani, permitting such action to be taken by the Petitioners and the Co-operative Society – Respondent No.4.

4. In this view of the matter, as fairly agreed at the bar, further adjudication is not called for. The Petition would accordingly stand disposed of, however, accepting the statement as made by Mr. Samdani. No costs.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)