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

WRIT PETITION NO. 409 OF 2025

Paresh Talakshi Gala and anr.

... Petitioners

Versus

Assistant Commissioner 'N' Ward

Designated Officer Ward 'N'

Municipal Corporation of Greater Mumbai and ors. ... Respondents

Mr. Viraj Pariekh a/w Mr. Vasim A. Shaikh, for the Petitioners.

Ms. S.V. Tondwalkar i/b Ms. Komal Punjabi, for Respondent-BMC.

Mr. Vishal Mhaikar, Designated Officer, B&F Dept., N Ward,
present.

Mr. Sanket Sakhalkar, Jr. Engg. B&F dept, N ward, present.

Smt. Anupamaa Pawar, AGP for Respondent-State.

**CORAM : M.S.KARNIK &
S.M.MODAK, JJ.**

DATE : 6th MARCH 2026

P.C. :

1. Heard learned counsel for the petitioners and learned counsel for the Municipal Corporation of Greater Mumbai ('MCGM', for short).

2. The challenge in this petition is to the order dated 28/06/2023 passed by the respondent no. 1- MCGM. The notice

came to be issued to the petitioners by the MCGM on 25/05/2023 for removal of the notice work referred in the notice. The petitioners are the purchasers of the subject flat from the previous owner. The petitioners are in occupation of the flat since the year 2011. The agreement in respect thereof is on record.

3. The erstwhile developer made a proposal for regularization of the notice work on 16/12/2022 with the respondent no. 2- The Executive Engineer, Building Proposal (E.S.), MCGM.

4. Learned counsel for the petitioners pointed out to us that the developer by the letter dated 09/02/2023 had also paid the scrutiny fees of Rs.9,032/- and had requested the respondent no.2 to process the regularization and to issue the occupation certificate at the earliest. Learned counsel for the petitioners submitted that now there has been a change of developer and the members of the Society have entered into a Development Agreement with a new developer. The building is in a dilapidated condition according to the Society and is likely to be demolished.

5. However, since the structure of the petitioners is not regularized, the new developer is not willing to enter into any

agreement with the petitioners. We must record that these are the subsequent events pursuant to the filing of the petition.

6. Suffice it to observe that the petitioners had purchased the subject flat as far back as in the year 2011. The necessary processing charges for regularization have been paid by the erstwhile developer, who was pursuing the application for regularization. Learned counsel for the MCGM submits that the regularization application which is at pages 37 and 44 was decided and rejected for want of certain documents. This happened because the new developer did not pursue the regularization application. In our view, the petitioners who have purchased the flat as far back as in the year 2011 should be given an opportunity to pursue the application for regularization. The rejection of the application for regularization is prejudicial to the interest of the petitioners.

7. In such a view of the matter, the application for regularization made by the erstwhile developer to the MCGM which is at pages 37 & 44 is permitted to be pursued by the petitioners.

8. Respondent no.2, within a period of 4 weeks from today, shall call upon the petitioners to submit the documents which according to respondent no.2 are necessary to process the application for regularization.

9. The petitioners, within a period of 2 weeks from the date of such notice, shall furnish the requisite documents. If the petitioners are not in a position to furnish the documents, the petitioners to satisfy/explain to the respondent no.2 the reason/difficulty in non-furnishing the documents.

10. Respondent no.2 to hear the petitioners and then proceed to pass appropriate orders on the application for regularization on its own merits and in accordance with law.

11. The writ petition is disposed of.

12. The interim order is vacated keeping all rights and contentions of the petitioners open.

13. In case the MCGM proceeds to demolish the structure on the ground that the same is in dilapidated condition or for whatever reason, the same shall not come in the way of petitioners'

application for regularization or their claim for entitlement of their rights in the subject flats against the developer/Society.

(S.M.MODAK, J.)

(M.S.KARNIK, J.)