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

WRIT PETITION NO. 472 OF 2025

Murlidhar Govind Varier

... Petitioner

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 Mhaskar, Designated Officer, B&F Dept., N Ward, present.

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

Smt. Lavina Kriplani, AGP for Respondent-State.

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

DATE : 6th MARCH 2026

P.C. :

1. Heard learned counsel for the petitioner 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 petitioner by the MCGM on 25/05/2023 for removal of the notice work referred in the notice. The

petitioner is the purchaser of the subject flat from the previous owner. The petitioner is in occupation of the flat since the year 2007. 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 petitioner 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 petitioner 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 petitioner is not regularized, the new developer is not willing to enter into any agreement with the petitioner. We must record that these are the subsequent events pursuant to the filing of the petition.

6. Suffice it to observe that the petitioner had purchased the subject flat as far back as in the year 2007. 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 page 38 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 petitioner who has purchased the flat as far back as in the year 2007 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 petitioner.

7. In such a view of the matter, the application for regularization made by the erstwhile developer to the MCGM which is at page 38 is permitted to be pursued by the petitioner.

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

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

10. Respondent no.2 to hear the petitioner 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 petitioner 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 petitioner's application for regularization or his claim for entitlement of his rights in the subject flats against the developer/Society.

(S.M.MODAK, J.)

(M.S.KARNIK, J.)