



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

WRIT PETITION (L) NO. 9727 OF 2023

1. Parshuram Jadhav }
2. Mrs. Nutan Parshuram Jadhav }
Adult, of Mumbai }
Residing at Flat No. 2903, 29th Floor,, }
CTS No. 185, Parel Sewree Division, G.D. }
Ambedkar Marg, Parel Tank Road, }
Mumbai-400 033. }

...Petitioners

V/s.

1. Municipal Corporation of Greater }
Mumbai, Annex Building, Mahapalika }
Marg No. 1, Opp. CST Railway Station, }
Besides Times of India Building, Fort, }
Mumbai-400 001. }

2. The Assistant Engineer }
Building and Factory Department (F/S }
Ward) Dr. B.A. Road, Parel, Mumbai-400 }
012. }

3. Chief Fire Officer }
Regional Command Center-2, Wadala }
Fire Station, Shaikh Mistry Darga Road, }
Antop Hill, Wadala, Mumbai-400 037. }

4. Executive Engineer }
Slum Redevelopment Authority, Bandra }
(East), Mumbai- 4000 051. }

5. Kingston Tower Co-operative Housing }
Society, }
Through its Chairman and Secretary viz. }
Mr. Girish Rathod and Mr. Paras Jain }
having its address at CTS No. 185, Parel }
Sewree Division, G.D. Ambedkar Marg, }
Parel Tank Road, Mumbai- 400 033. }

...Respondents

Mr. Simil Purohit with Mr. Ashok Verma with Mr. Vishal Puttabiraman
a/w. Mr. Mittal Munoth I.by Aditya Khanna for petitioner.

Ms. Pooja Yadav I.by Mr. Sunil Sonawane for BMC.

Mr. Rajendra Dhande, Assistant Divisional Fire Officer present in Court.

Mr. Abhijit P. Kulkarni for respondent no. 4/SRA.

**CORAM : SUNIL B. SHUKRE &
RAJESH S. PATIL, J.J.**

DATE : 18th AUGUST 2023.

ORAL JUDGMENT : (PER SUNIL B. SHUKRE, J)

1. Rule. Rule made returnable forthwith. Heard finally by consent of learned counsel for the respective parties.
2. We are of the view that purpose of this petition would stand well served if appropriate directions are issued to respondent no. 1., especially when there is a complaint dated 17th August 2016 made by members of the housing society alleging encroachment made by some flat purchasers in the refuge areas and it is the contention of learned counsel for the petitioners that the purpose of refuge areas is to meet any contingency arising from any untoward incident or any accident arising out of some events beyond the control of human beings. If such is the nature of the complaint, the Corporation would have to apply its mind and find out if there are any such facts as

alleged which are in existence and if so the Corporation would have to take an appropriate decision in the light of the relevant rules. Accordingly, we direct respondent no. 1 to decide the complaint dated 17th August 2016, which was sent to respondent no. 3 under cover of letter dated 17th September 2016 by the Honorary Secretary of respondent no.5 in accordance with law as early as possible, preferably within a period of two weeks from the date of appearance of the petitioners and also the encroachers who shall be given appropriate date, after due notice to them, for their appearance. If necessary the respondent no. 1 through competent officer and in the presence of petitioners and the affected persons may carry out inspection of the building in question in order to verify the correctness of the allegations made in the complaint.

3. Rule is made absolute in the above terms. No costs.
4. Writ Petition is disposed of.

(RAJESH S. PATIL, J)

(SUNIL B. SHUKRE, J)