



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

WRIT PETITION (LODGING) NO.15448 OF 2023

Yasin Gulam Hussain Esmail ...Petitioner
V/s.
Mumbai Municipal Corporation & Ors. ...Respondents

Mr.Owen Menezes with Mr.Ravi Gadagkar i/b Mr.Aniket Ransubhe for
the Petitioner.

Mr.Sharan Jagtiani, Senior Counsel with Ms.Apurva Manwani i/b Jeet
Gandhi for Respondent No.4.

Mr.Kunal Waghmare for the Respondent – BMC.

CORAM : SUNIL B. SHUKRE &
RAJESH .S. PATIL, JJ.
DATE : 22ND JUNE, 2023.

P.C. :-

1. Heard.
2. It appears that there are many irregularities being committed in this matter. One such example is of area statement issued by the Corporation. There is area statement dated 16th March, 2023 which indicates that ground floor of building in question i.e. plot No.83 is vacant and on the attic floor of building on plot No.83-A is also vacant. This statement also shows the carpet area under occupation of the Petitioner the first floor of building on plot No.83 is

174.49 sq. mtrs. Normally such area statement would have to be taken as conclusive proof of statements made therein. But, the Corporation has issued another area statement on 20th May, 2023 and it is completely inconsistent with the area statement dated 16th March, 2023. In the first area statement dated 16th March, 2023, the ground floor of the building on plot No.83 and the attic floor of building on plot No.83-A have been shown to be vacant. In the second area statement, there are tenants occupying these floors and their names are mentioned therein. The second area statement also reduces carpet area under occupation of the Petitioner from 174.49 sq. mtrs to 124.95 sq. mtrs. It is obvious that the record of the Corporation is being manipulated by those having vested interest. They are also indicative of amalaize in the state of affairs of the Corporation. By issuing such inconsistent area statements, the Corporation appears to be playing with precious lives of human beings and the rights of the occupants of the old and dilapidated buildings. With such inconsistencies created in the record, the occupants of the old and dilapidated building are in a quandary about their position today and they would not be certainly in a position to take any informed decision about vacating of dilapidated buildings.

3. Their dilemma arises from the fact that if they vacate the buildings, the evidence available for taking correct measurements of

the carpet area under occupation will vanish and if they continue to occupy such dangerous buildings, their lives themselves will be in danger. But, some solution has to be found out in such a case whereby the Petitioner's safety is ensured and also the Petitioner's rights are protected.

4. In this view of the matter, we direct that the carpet area of 174.49 sq. mtrs. stated in the area statement dated 16th March, 2023 (page 75) shall be the carpet area under occupation of the Petitioner and all entitlements of the Petitioner regarding alternate accommodation, if any, accommodation in redeveloped property, if any, shall be determined with reference to this area i.e. 174.49 sq. mtrs. We further direct that the Petitioner shall vacate the premises in question at the earliest and in any case within ten days from the date of this order, while making it clear that any continuation of occupation of premises by the Petitioner in the building in question from today and onwards shall be at the own risk and danger of the Petitioner, and so it is better that the petitioner evacuates himself at the earliest.

5. Stand over to 6th July, 2023.

(RAJESH S. PATIL, J.)

(SUNIL B. SHUKRE, J.)