

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO. 19422 OF 2025

Vikas Premises Co-op Soc Ltd.) ...Petitioner

Versus

1 Brihanmumbai Municipal Corporation)
2 The Municipal Commissioner)
3 The Assistant Engineer, (B & F), A Ward)
4 Junior Engineer Water Department)
5 The Senior Police Inspector)
6 Brihanmumbai Electric Supply & Transport) ...Respondents

Mr. Aniruddh Joshi, Senior Advocate a/w Mr. Mayur Khandeparkar, Mr. Ishwar Nankani, Ms. Vrushali Pokharna, Ms. Avishka Jadhav i/by Nankani & Associates for the Petitioner.
Ms. K. H. Mastakar i/by Ms. Komal Punjabi for Respondent No.1-BMC.
Mr. Atul Vanarse, AGP for Respondent No.5-State.
Mr. Sumeet Palsuledesai a/w Mr. Mohammed Omar Shaikh i/by M. V. Kini & Company for Respondent No.6-BEST.
Mr. Rahul Jadhav, Asst. Eng. (B&F), 'A' Ward is present.
Mr. Nagesh Lomte, Jr. Eng. (B&F), 'A' Ward is present.

CORAM : G.S. KULKARNI &
ARIF S. DOCTOR, JJ.
DATE : 2ND JULY 2025

ORAL JUDGMENT (PER ARIF S. DOCTOR J.)

1. This is a case pertaining to a dangerous building known as 'Vikas Building', which is situated at a short distance from this Court, in a busy commercial area of Mumbai, namely, the Fort area. It is a building of

about 129 years old, which has been categorized to be extremely ruinous (C-1 category) and which would suffer an imminent collapse. It has been already vacated in a very urgent situation by the Disaster Control Cell of Mumbai Municipal Corporation on 21 June 2025.

2. The petitioner is the owner of the building. It is ground + 4 storeyed structure, which has about 37 tenements/members all of which are commercial/offices. Any untoward incident of a collapse of the building would not only be a disaster qua the occupants of the building, but also to the adjoining premises qua the public at large in the busy Fort area. The water and electricity supply of the building have already been disconnected. It is in these circumstances, the petitioner is before the Court and in our opinion “too-too” late in time to contend that the petitioner would make an attempt to repair the building.

3. Being tasked with adjudication of this petition, we are duty bound to refer to the decision of this Court in **High Court on its own motion (In the matter of Jilani Building at Bhiwandi) vs. Bhiwandi Nizampur Municipal Corporation and Others**¹ wherein the Court being alarmed and deeply pained by the incidents of collapse of the buildings, resulting in loss of lives, has initiated the said Suo Motu Public Interest Litigation. In the said case, it was a collapse of a building known as "Jilani Building"

1 2022 SCC OnLine Bom 386

at Bhiwandi, taking away 38 lives. Added to such incident, was an incident of collapse of another structure on 9 June, 2021 at Malwani in which 12 persons lost their lives. The Court observed that the situation was such that different categories of structures were vulnerable to a collapse posing constant threat to the lives of innocent people. It was observed that the past incidents have shown a spree of human lives being lost which has continued unabated. The Court pondered as to how long this “unending cycle” of sustaining buildings in ruinous state, including uncontrolled illegal and unauthorized constructions, and amongst them the ghost of countless number of dilapidated buildings, would haunt innocent people. It was observed that a deeper dive into these issues, the scene was murkier. The Division Bench observed that what possessed the Court was a poignant hope and optimism that things would improve and drastic steps would be taken by the concerned authorities to prevent building collapses. It was observed that in the deepest of the heart, the Court was concerned on human lives being lost in such building collapses. Notably, it was observed that the Court believed, with certainty, that the strong arms of law were required to be used firmly, not only to punish the disorderly, but also, to save the lives of those who become victims. Being confronted with such state of affairs in respect of the dilapidated buildings, the Court held that it was an ultimate

accountability and responsibility of the municipal officers and/or municipal machinery in the event of collapse and made the following significant observations:-

“DILAPIDATED/RUINOUS BUILDINGS.

91. People losing their lives in building collapses, is required to be completely obliterated. The right to livelihood, in our opinion, includes the right to live in safe buildings and houses. Whosoever is the owner of the building, may it be of private ownership or of the ownership of a public body, as also whosoever is occupying the building, it is the constitutional obligation of such persons, that the safety of the building/premises is paramount so that the lives of the residents of the buildings are safe and not endangered by a likely collapse. In the event of an unfortunate collapse not only the owners but also the occupants for their negligence would be required to be held responsible for consequences which may arise from a collapse.

92. We have noted the provisions of law which recognize an obligation of the owners/occupants to maintain the premises so that they are safe for human living. In the event the structure/building is dangerous, strict enforcement of the provisions of law is expected from the municipal authorities against the owners and the occupants of such structures/building. It is clear that variety of powers are available with such authorities to enforce such obligations. It is also a lawful duty of these officers not to turn a blind eye to the ruinous buildings, and by their inaction, bring about a situation that the building/structure collapses and residents lose their lives. In such event, not only the persons who own the building but also those who permit ruinous buildings to stand, become accountable and responsible for the consequence of such collapses. The tendency of those who knowingly permit occupation of ruinous buildings/structures is also required to be commented upon. If there is resistance of the occupants to vacate the buildings which are ruinous, then necessarily, not only in the interest of the residents of such building but also those who occupy the adjoining premises and those who are likely to be affected in the event of unfortunate collapse, becomes a matter of serious concern. In such situations, it is expected that the authorities take all forcible measures against such occupants as permissible in law. If such occupants in this situation resist the action being taken and approach the Civil Court, the Civil Court in such a situation needs to be extremely slow as noted by the Co-ordinate Bench of this Court in Mohd.

Talib Habib Shaikh (supra) as any interference by the Civil Court may endanger the lives of others.

93. In our considered opinion, there is an urgent need of a collective social consciousness to be inculcated in our fellow citizens living in unsafe buildings. The adamant attitude of residents to vacate the buildings which are declared to be ruinous needs to be strictly dealt. The municipal machinery needs to enforce the mandatory compliance of structural audits to be submitted by the owners of the buildings as per the requirement of law, failing which, actions need to be taken against such owners who do not undertake structural audit of old buildings. This is the need of the hour. There is yet another aspect, also there is no guarantee that the new buildings (less than 30 years old) are safe and would not collapse as the experience has shown. In regard to such buildings, the municipal authorities are required to take all precautions also of securing an undertaking from the developer/builder or from whosoever is constructing the building, that the entire structure of the building would be safe for its occupants on all aspects of its user, for the stipulated period as the law may require, and as to a declaration as to the safe life of the building in normal circumstances. In our opinion, in the absence of such guarantee and assurance of safety, the lives of the occupants can certainly be said to be unsafe to occupy the building, where such assurance has been compromised. Thus, all provisions under the law and the D.C. Regulations need to be strictly enforced on this front.

94. We also note from the current statistics which are made available by the Mumbai Municipal Corporation on its website that there are 407 dilapidated buildings in Mumbai. There may be similar structures within the Municipal jurisdiction of Corporations in the vicinity of Mumbai and other places. The planning authorities, therefore, are required to take emergent actions in regard to such ruinous structures and save innocent lives being lost in possible building collapse. Various enactments conferring powers with the Municipal Corporation are replete with provisions strengthening the hands of the municipal officers to take action against such dilapidated buildings. The concerned officers not only need to be vigilant but also inculcate a willingness to take actions, and that too, by overcoming all odds and possible interferences/hindrances which may be created by unscrupulous, unconscionable and corrupt elements, in obstructing their lawful discharge of duties. There may be extraneous forces which may operate in this situation and derail any action to be taken in respect of a dilapidated building. However, as it would be the ultimate accountability and responsibility on the municipal officers, in the event of an unfortunate building collapse, the officers need

to overcome all such pressures and discharge their duties with utmost accountability as obligated in law.

95. As noted by us above, the Municipal Commissioners are expected to frame a mechanism so that the concerned designated officers of every ward would enforce an audit of the buildings as required by law, so that the buildings which are notified to be ruinous can be vacated and incidence of a collapse averted. We may also note that there may be category of buildings which in no time from the year of their construction become dangerous due to the inferior quality of the construction material and/or for other reasons. Experience has shown that there are certain buildings of recent origin, which were constructed with sub-standard materials and/or on account of their rank defective construction, were hazardous for occupation and ultimately collapsed. This was a case of a building which collapsed on 4 April, 2013 in Mumbra, now a suburb of Thane. It was one of the most ghastly collapses in which 74 people died, and of which there were 18 children, 33 men and 23 women. Such building was an illegal building. A serious question in such situation would arise, as to how such illegal buildings could come up and people occupy such buildings? Is it not in connivance with the municipal and the State officers ? It is for such reason, and with the sense of concern for our fellow citizens, we have impressed the important role of the municipal and the State officers in the scheme of affairs, to be extraordinarily vigilant and prevent building collapses. A comparatively new building becoming dangerous is also required to be brought to the notice of the municipal authorities by all the concerned including the occupants, as these situations cannot remain hidden.

96. **We also cannot forget the role of the municipal officers and its law officers in not showing promptness and/or in delaying to move the Courts for vacating any orders passed on illegal constructions and dilapidated buildings. They cannot remain mute spectators in the event the situation requires a stay or injunction, warranting to be urgently vacated. The Municipal Commissioner needs to take appropriate actions on the concerned officials, if it is found that prompt actions are intentionally not being taken or are delayed for extraneous purposes and for unexplainable reasons.”**

(emphasis supplied)

4. It is on such conspectus, the Court in its operative order issued directions to the Municipal Commissioner and/or the competent authority of a

Designated Planning Authority to take review of the illegal buildings/ structures in every ward and actions be taken thereon every month. In the event of inaction, the Court also directed that accountability be fixed on the municipal officers.

5. The substantive prayers as prayed for by the petitioner in the present petition, at the outset, are required to be noted which read thus:-

“a) that this Hon'ble Court be pleased to issue a Writ of Mandamus or Writ in the nature of Mandamus or any appropriate writ, order and /or direction declare that the 2nd, 3rd, 4th, 5th and 6th Notices, are illegal, null, void, non-est, unenforceable, not binding on the Petitioner and quash and / or set aside the same;

b) that this Hon'ble Court be pleased to issue a writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ, order and / or direction restraining Respondents No. 1 to 6 to refrain from acting upon the either of the 2nd, 3rd, 4th, 5th or 6th Notices against the Petitioner or the said Building;

c) that this Hon'ble Court be please to issue a writ of Mandamus or a writ in the nature of Mandamus or any other appropriate writ, order and / or direction directing Respondents No. 1 and 6 to forthwith restore the electricity supply and water connection of the said Building;”

6. As the facts would indicate failure on the part of the petitioner to maintain the building leading it to deteriorate so as to reach a stage that every owner or occupier of a building is required to be evacuated on an alarm of collapse of the building, is something which cannot be overlooked. The

legislature has made a robust provision that any building which is more than 30 years old is required to be certified by the structural engineer to be safe as provided for by incorporating Section 353B of the Mumbai Municipal Corporation Act, 1888 (for short “**MMC Act**”).

7. In the year 2024, a structural audit report in respect of this building was submitted to the Municipal Corporation, which was scientifically undertaken with all mandatory test being carried out by the Structural Engineer. The structural audit report has made multiple observations, some of which are to the effect that the columns were observed with corrosion cracks, wall was observed with vertical masonry cracks and seepage marks, ceiling was observed with seepage marks. Most significantly beams were observed with corrosion cracks, window lintel beam was observed with seepage marks, window top was observed with cracks, structural steel beam was observed with corroded and plaster observed cracks, roof wooden ceiling had seepage marks, columns cladding were having cracks, walls were observed with separation cracks, ground floor passage ceiling was observed with wind corrosion cracks and reinforced expose. The photographs of this ruinous building are part of the report submitted by the Structural Engineer at the behest of the petitioner about a year back i.e. in June 2024. The report observed that even if repairs are undertaken at the most serviceable life, it would be for another 15 years. Such report was re-confirmed by the said Structural Consultant by a fresh report submitted on the request of the Municipal Commissioner very recently on 21

June 2025 when the building was classified into 'C-1' (dangerous) category *inter alia* with remark "to be evacuated immediately".

8. On such backdrop, we now advert to the contentions as urged on behalf of the petitioner.

9. Shorn of unnecessary details, it is the Petitioner's contention that the Respondent No. 1 has issued the impugned notices in complete breach of the provisions of Section 353B of the MMC Act as also the Order of this Court passed in Writ Petition No. 1080 of 2015 and the Circular dated 10th October 2017 issued by Respondent No. 1 are thus illegal, null and void.

10. Mr. Joshi, Learned Senior Counsel appearing on behalf of the Petitioner at the outset invited our attention to the notice dated 20th June 2025 ('first notice') issued by Respondent No.3 (Assistant Engineer, Building and Factory) under Section 353B of the MMC Act, and pointed out that by the first notice, the Petitioner was called upon to examine the said Building by appointing a structural engineer /consultant for the purpose of certifying that the said Building was fit for human habitation within a period not exceeding 30 days from the receipt of the above Notice.

11. Mr. Joshi then pointed out that despite the fact that by the first notice, the Petitioner was granted a period of 30 days to furnish the report of a structural engineer/consultant, the Respondents, in complete breach of the provisions of Section 353B of the MMC Act issued the following impugned

notices to the Petitioner:

- i. Notice 20th June, 2025 ('2nd notice') issued by Respondent No. 5 (The Senior Police Inspector) directing that the said Building should be vacated immediately owing to cracks being developed in the said Building.
- ii. Notice dated 20th June 2025 ('3rd notice'), issued by Respondent No. 6 (Brihanmumbai Electric Supply & Transport) informing the Petitioner that the electricity connection for the said Building had been disconnected on the grounds that the said Building had been declared as dangerous having been categorized as "C-1".
- iii. Notice dated 21st June 2025 ('4th notice') issued by Respondent No.3 calling upon Petitioner to immediately vacate and pull down the said Building within a period of 7 days from receipt of the notice.
- iv. Notice dated 23rd June 2025 ('5th notice') issued by Respondent No.3 calling upon the Petitioner to prepare an "Area Statement" of the occupants of the said Building within a period of 7 days from receipt of the said notice.
- v. Notice dated 25th June 2025 ('6th notice') issued by Respondent No. 4 (Junior Engineer Water Department) informing the Petitioner that the water supply for the said Building had been discontinued.

12. Mr Joshi, then without prejudice to the aforesaid submission pointed out that Respondent No. 1 had at no point of time, prior to issuing the impugned notices even informed the Petitioner that the said building was declared C-1, let alone furnished the Petitioner with a copy of the said report by

which the said building had been classified as C-1.

13. He then submitted that even the basis of the classification of the said building as C-1 was fundamentally flawed since the classification was done on the basis of a structural stability report of July 2024 ('the first report'), which had been obtained by the Petitioners from one Mahimtura Consultants Private Limited ("Mahimtura"). He pointed out that the first report infact concluded as follows:

"The overall condition of the building is quite repairable and serviceable life of the Building can easily be enhanced by 15 years after suggested repair works are carried out". Additionally, the said report provided an estimate of Rs. 1,49,97,300/- (Rupees One Crore Forty-Nine Lakhs Ninety-Seven Thousand Three Hundred Only) for carrying out necessary repairs."

14. Mr. Joshi submitted that the classification of the said building was entirely malafide as Mahimtura had, on the basis of the first report filled in the profoma -B, classified the building as C-1 without carrying out any fresh inspection of the said building. He further pointed out that the classification was (i) plainly contrary to the first report (ii) Mahimtura did not have any authority to fill in profoma -B since this was after Mahimtura's engagement with the Petitioner had come to an end and (iii) the Proforma – B had never been accepted by the Petitioner.

15. Mr. Joshi then submitted that the Petitioner had also, after receipt of the first notice engaged the services of one Vishwakarma Enterprises

(‘Vishwakarma’) to carry out a structural audit of the said building. He pointed out that Vishwakarma had in its report *inter alia* opined as follows:

“Hence considering the above investigations and test results, it is recommended that the existing structure named Vikas Premises Co-Operative Society Ltd. Plot Bearing C.S. No. 219 of Fort Division, A Ward at 11, N.G.N. Vaidya Marg, Fort, Mumbai-400001, having G+4 upper floors shall be repaired for major structural strengthening / rehabilitation works for external and internal structural members along with related plastering, water proofing and painting works under the supervision of qualified structural engineer and site supervisor. The back side wall portion of the building from 2nd to 4th floor shall be removed and replaced with new masonry works with additional supporting means. The method statement and specification for carrying out repair shall be obtained from the competent consultant and the work shall be carried out.”

Mr. Joshi thus submitted that since there were two conflicting reports, both reports must necessarily be referred to the Technical Advisory Committee (‘TAC’) in terms of the Order passed in Writ Petition No. 1080 of 2015 and the Circular dated 17th October 2017 issued by Respondent No. 1 to enable TAC to decide which report is to be acted upon. He submitted that until such time as TAC decides, the impugned notice cannot be acted upon.

16. Mr. Joshi clarified that the Petitioner was not seeking to occupy the said building at this stage nor was seeking the restoration of electricity and water. He submitted that all that the Petitioner was seeking at this stage was for both the reports to be placed before the TAC and until TAC opines on the way forward, the said building not to be demolished.

17. *Per contra*, Ms. Mastakar, Learned Counsel appearing on behalf of Respondent No.1 submitted that the Petitioner's contentions were entirely devoid of any merit. She pointed out that the Respondents had been constrained to issue the impugned notices in view of a call which was received from the Disaster Control Cell of Respondent No.1 at 7.15 p.m. on 20th June 2025, by which Respondent No.1 was informed that the said Building was in an extremely dangerous condition and was likely to fall, which is to the following effect.

FB—5

BRIHANMUMBAI MUNICIPAL CORPORATION
MUMBAI FIRE BRIGADE

STOP Other Service Report

R.C.C. No.: R-I/ Sub-Div- II /Stn. No.: -02

CR Incident No.: 227

Officer In Charge: - S.O A.D.Mulik ✓

Date of Incident: 20.06.2025

I-Call

Called by Stranger / Telephone No.: 9322226899 ✓

Address of the Premises involved: Vikas Building, Green Street, Mumbai 4000 01 ✓

Occupier's Name :- } The Secretary.

Business :- Private

Owner's Name & Address: } Vikas CHS, Fort, Mumbai 400001

Time of Call: 1839 hrs.

Stop 'Other Service' Message at 1855 hrs.

Time of First Turn Out: 1839 hrs.

Time of Arrival at Incident: 1855 hrs. ✓

Time & Date of leaving Incident: 2035 hrs. on 20.06.2025 ✓

Total time employed: 02 hrs. 06 mins.

Distance from station to incident: 01 Kms

All Clear at: 2045hrs. on 20.06.2025. ✓

Name of Last Officer to leave the incident: S.O.A.D.Mulik

(MP-26, Fort)

II – Particulars of Incident

Full Details of Incident: On arrival at the scene of incident it was learnt from members of public & also observed that, the vertical & horizontal cracks were developed from second floor to terrace floor at south east side of ground plus part four upper floored & part five upper floored commercial building. None reported injured.

Suppose Cause of Incident:- Under Investigation by building department of 'A' ward.

Service rendered:- Initially area was cordon off, building was vacated, electric supply of said building was disconnected as a precautionary measure. Entry was restricted to inmates, instructions given to concern in presence of police regarding dangerous situation of building. Building & Factory dept. attended. Police personnel & BEST were asked through control room.

III- Persons escaped and rescued

Escaped without assistance of Fire Service		Assisted out by Fire Service without aid of appliances		Rescued by Fire Service using appliances	
Male	Female	Male	Female	Male	Female
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*Note: Report on False calls should be marked "FALSE" in red ink across Part-II of the report.

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18. She then invited our attention to the notice dated 21st June 2025 ('4th notice') which she pointed out recorded as follows:

Gentlemen,

Call is received from disaster control cell of BMC at 07:15 PM on 20.06.2025 informing that the building named Vikas Building, situated at Green Street, Fort, Mumbai-400 001 is in dangerous condition and likely to fall. The Mumbai Fire Brigade, Police Personnel and staff of this office immediately reached the site when it is observed that major vertical cracks have occurred in the east side external wall of the building, which is in close proximity with the adjoining Green House building. The building is immediately vacated by the Fire Brigade department with help of Police Staff. Warning Posters about dilapidated / dangerous condition of building are displayed inside and on outer walls and along periphery of the building. The premises is cordoned in order to prevent person from moving or passing in and around the building. The occupiers and office bearers of the Vikas Premises Co-op. Society Ltd. were present on site and informed that they had carried out Structural Audit of their building wherein repairs were suggested by their Structural Consultant M/s. Mahimtura Consultants Pvt. Ltd. The said consultant came on site at around 08:25 PM and observed the present condition of building. He informed that he had given Structural Audit report to the society, about a year before, informing therein to carry out immediate structural repairs however till date the society has not taken any remedial measure. A letter dated 21.06.2025 of M/s. Mahimtura Consultants Pvt. Ltd. is received to this office along with Proforma B of Structural Audit Report and photographs showing conditions of the structure, wherein the said consultant has mentioned his various observations showing that the structural condition of building has become extremely dilapidated. He has mentioned specifically that, "Main load carrying members such as Load bearing walls, columns, beams and slab are severely damaged due to corrosion and damage to the concrete due to age and weathering effect. Building shall be evacuated to carry out propping."

Meera Jadhav

In the Proforma B received on 21.06.2025, the consultant M/s. Mahimtura Consultants Pvt. Ltd. has categorised the building in C-1-category.

In view of above it appears to me that the G + 4 storey building of "Vikas Premises Co-op. Society Ltd., situated at Green Street, Fort, Mumbai – 400 001" of which you are the Owner/Occupier / User / Chairman / Secretary / Society, is in a ruinous condition likely to fall and dangerous to any person occupying, or passing by the same as per the observations and recommendations of consultant M/s. Mahimtura Consultants Pvt. Ltd. in their report.

I hereby require you, under section 354 of the Mumbai Municipal Corporation Act as follows:-

"To immediately vacate and pull down the G + 4 storey building of "Vikas Premises Co-op. Society Ltd., situated at Green Street, Fort, Mumbai - 400001", and to prevent cause of danger therefrom. I further hereby require you, under aforesaid section of the Municipal Corporation Act to forthwith secure the said structure and to set up a proper and sufficient board or fence for the protection of passers-by and other persons and adjoining properties. I give notice of 07 days from the service or receipt thereof that if the requisition be not complied with, this office shall in accordance to provisions of section 489 of Mumbai Municipal Corporation Act, take all such measures as to comply the above requisitions and you will render yourself liable for prosecution as per relevant provisions of the said Act.

Ms. Masatkar thus submitted that there could be no doubt as to the fact that the said building posed a grave risk not only to the occupants but also to the surrounding buildings and to the public at large. She thus submitted that the said building would have to be demolished as set out in the 4th notice.

19. Ms. Masatkar also independently placed reliance upon the letter of

Mahimtura dated 21st June 2025 which she pointed out recorded as follows:-

“Dear Sir,

As per telephonic call and request from your office and Society, our engineers have visited the site yesterday evening in view of some cracks reported in rear load bearing walls of the structure. Accordingly, the limited area of the structure mainly rear side wall and common area of building inspected and some wide cracks were observed. We are submitting herewith Proforma B based on quick observation yesterday and the information available from visual inspection done about a year before. Due to safety and time restriction site was not allowed to access fully. We therefore recommend to have a thorough inspection to suggest more appropriate safety and other remedial measures required as soon as possible.

Please note that validity of our earlier report submitted in 2024 was for 6 months only and no remedial measures has been adopted as on date as recommended in the said report. Hence we are reminding again to take action immediately as per enclosed structural audit report “Proforma B”.

Basis the above, Ms. Masatkar submitted that Mahimtura had categorically confirmed that the Petitioner had taken no remedial measures when the said building was in highly ruinous and dilapidated condition. She thus submitted that the Respondents were entirely justified in issuing the impugned notices and given the grave condition that the building was in, thus no interim relief ought to be granted to the Petitioner.

20. At this stage, we put to Mr. Joshi as to what steps were taken by the Petitioner after receipt of the first report from Mahimtura, in July 2024. In response, Mr. Joshi pointed out that the Petitioner had in this regard, in the

Petition averred as follows:

13. "After receipt of the said Report, the Petitioner held various meetings to discuss on the method of implementation of the recommendations and suggestions contained in the said report.

14. The Petitioner conducted various meetings in which it was agreed by and between the members of the Petitioner that the said Building may be redeveloped Pursuant thereto the Petitioner invited tenders for undertaking the said activity. However, none of the tenders found favour with the majority of the members of the Petitioner, as a result of which the said redevelopment process could not be carried out.

15. As there was no favourable offer for redevelopment, the Petitioner was considering the manner of undertaking repair / reconstruction of the said Building."

We then asked Mr. Joshi as to what material was there to substantiate what had been set out above. Mr. Joshi submitted that he would place the same in a compilation by 5 p.m. by the end of the day. We thus placed the matter today for passing orders.

Analysis and Conclusion :-

21. After having heard Learned Counsel and having perused the compilation filed by the Petitioner, we find that not only has the Petitioner not made out a case for the grant of any interim relief, but that the Petition itself deserves to be dismissed for the following reasons:

A. A perusal of the compilation submitted by the

Petitioner reveals that the Petitioner had, as far back as 7th May 2024 obtained a structural stability report from one K.R. Trivedi *inter alia* certifying the said building “as very old, dilapidated and required to be vacated immediately”. Despite this in paragraph 9 of the Petition, the Petitioner has made an averment to the following effect:-

“Considering that the said Building was old, the Petitioner had from time to time carried out necessary Structural Audits of the said Building”.

No reference to the said report has been made, much less explained in the memo of the petition. In our view, this amounts to material suppression, as the Petitioner had in its possession the report which showed that the building was infact C-1. It was incumbent upon the Petitioner to have specifically set this out and then, if at all, explained the same. The Petitioner having not done so, has clearly approached this Court with unclean hands. On this ground alone, the Petition must fail.

B. Further, and *crucially*, a perusal of the compilation of documents filed by the Petitioner also reveals that the Petitioner had on 14th October 2024 received a letter from the Mumbai District Co-Operative Housing Federation

Ltd. (a copy of which was not annexed to the compilation) pursuant to which the petitioner obtained a quotation from one M/s. Sanjay & Co. for civil work pertaining to Beam and Column in filling section office next to the society office unit no. 406. *Shockingly*, the Petitioner did not take any steps to carry out this work despite knowing fully well that the building was in a grave condition, instead on 24th February 2025, after almost four months, the managing committee of the Petitioner *inter alia* resolved as follows:

“at this stage, it would not be necessary to consider the quotation received from one M/s Sanjay & Co. for civil work of beam and column in the filling section office next to the society office unit No.406, pursuant to a letter dated 14th October 2024 received from the Mumbai District Co-Operative Housing Federation Ltd, since the society was in the process of undergoing redevelopment.”

Thus, it is clear as daylight that the Petitioner, despite the fact that the condition of the said building was so grave, did absolutely nothing to ensure its repair and restoration, despite reports which set out the emergent need for doing so.

C. The Petitioner's contention that the building's classification as C-1 is flawed and requires reference to the TAC, especially in light of the Vishwakarma report, is entirely untenable in the aforesaid facts, all of which were

suppressed from this Court. The notice dated 21st June 2025, sets out in detail the on-site observations of "major vertical cracks" in the east side external wall. Mahimtura after revisiting the site on 20th June 2025, submitted Proforma B on 21st June 2025, categorizing the building as C-1 which explicitly states that "*Main load carrying members such as Load bearing walls, columns, beams and slab are severely damaged due to corrosion and damage to the concrete due to age and weathering effect. Building shall be evacuated to carry out propping.*" Furthermore, Mahimtura's letter dated 21st June 2025, unequivocally confirms that the Petitioner had taken no remedial measures as recommended in the first report and also that the said building is in a highly ruinous and dilapidated condition.

D. Crucially, even the report upon which reliance was placed by the Petitioner i.e. Vishwakarma's report also in no uncertain terms *inter alia* records that "*the structural members in the building require major work towards the strengthening / rehabilitation of structural members and load bearing walls along with related plastering and waterproofing works to maintain the building in good condition. The portion of wall at back side of the building from 2nd to 4th floor is beyond repair and the same shall be*

removed carefully and shall be replaced with new masonry works with additional means to transfer the load efficiently from 4th floor to ground floor.” Thus from the material before us, there is no manner of doubt that the said building is in a very precarious condition and posed a grave danger and thus necessitates immediate preventive action.

E. The very purpose of the TAC, as established in Writ Petition No.1080 of 2015 and the Circular dated 17th October 2017, was to reconcile conflicting structural audit reports. However, this mechanism was intended for situations where there was a genuine dispute over the structural integrity of a building and where immediate danger is not apparent. This procedure was not contemplated to aide those Societies which have done absolutely nothing to ensure that their premises are kept well maintained and don't pose a risk to the safety of all concerned. In the facts of the present case, from all counts the situation is one which requires swift action which we must both note and commend the Respondent Corporation for taking. The suppressed material itself makes it clear that the contention that there are in this case "conflicting reports" is wholly irrelevant and certainly not acceptable in the fact situation. Thus, in such gross facts the question of

submission of the reports to the TAC in our opinion, does not arise. In any event, the safety of human life and property in the vicinity takes precedence over any so-called procedural lapses, even assuming such existed.

F. Even otherwise, we find the stand taken by the Petitioners to be most odd. From the compilation, which is placed on record, it is clear that the members of the Petitioner had resolved to issue Public Notice inviting offers for preparing feasibility/project report for repairs/or for the redevelopment/or reconstruction and pursuant thereto, it appears that they had infact issued such public notice for *“assisting society in carrying out a detailed survey of the Society Property and preparing a feasibility report for redevelopment and/or reconstruction and/or repairs of the Society Property”*. Thus, today it is indeed befuddling as to on what basis the Petitioner can resist the building being pulled down, especially when the Petitioners right to redevelop the same would be intact and which the Petitioner had always sought. It is clear to our minds from a perusal of the suppressed material, that the Petitioners now want to repair the said building and not proceed with its redevelopment, purely for commercial considerations and nothing else. This conduct of the Petitioner is absolutely

unconscionable since clearly the Petitioners have put commercial considerations above issues of not only the safety of their own members but also the public at large. Suffice to state that it is the Petitioner alone who is responsible for the dilapidated condition of the said building since had the same been maintained by the Petitioner, the said building would not be in the grave condition that it is today in.

G. Though an argument was canvassed that the Petitioner had chosen to repair and not redevelop the said building since redevelopment would be impeded in view of the fact that the building was in the proximity of the naval precincts, not a single document to support such contention was even relied upon nor formed part of the compilation of documents submitted. In any view, even assuming any such fetter existed, the same could never be used as a shield to resist the demolition of a building which as already noted above poses a grave threat not only to the occupants thereof, but also to the public at large as already noted above and is located in the heart of Mumbai's commercial hub and thus any collapse would have disastrous consequences.

H. The facts of the present case and from the material which

is placed before this Court as also the suppressed material makes it crystal clear the immediate and verifiable threat of collapse, which necessitate the demolition of the said building. This Court has consistently held, as evinced in numerous pronouncements including the judgment of the Bombay High Court in the case of **High Court on its own motion (In the matter of Jilani Building at Bhiwandi)** (supra), that where a building is found to be in an imminently dangerous condition, posing a risk to life and property, the municipal authorities are duty-bound to take prompt action, including demolition, to avert a disaster. In the Jilani Building case, this Court held that the paramount consideration is public safety, and when there is clear evidence of a dilapidated structure posing an immediate threat, procedural delays or disputes over repair versus redevelopment cannot be permitted to jeopardize lives.

22. While parting, we may observe that in the glaring facts and circumstances of the case, preventing the municipal machinery from strict adherence to the provisions of law and take appropriate action the law would mandate, consistent to what has been held in the decisions of this Court, and/or to take a view against demolition is certainly not acceptable. To deal with such serious issues peculiar to Mumbai with large number of old and

dilapidated buildings suffering collapses and which invariably happen during the monsoon season, this Court rendered its decision in **High Court on its own motion (in the matter of Jilani Building at Bhiwandi)** (*supra*). What is paramount for the Court is to consider is safety of human lives, which would be not only of the occupants but also of all those who are likely to be affected by this ruinous structure. Even persons occupying adjoining buildings, passers-by on the busy road have rights not to get affected in any manner by a building collapse. There cannot be any guarantee whatsoever when the building would collapse. The duty to maintain the building was of the petitioner, which is a Cooperative Society and certainly an association of persons who are all occupying commercial premises, that too with several prominent commercial establishment and a restaurant being situated in the building with large business turnover. All such persons have done nothing, than exploiting the building and recklessly using the same, leaving the building to be deteriorated. Today the situation is of *fait accompli*. It has gone completely out of hand. On such conspectus, we would not permit ingenuity and/or such technical pleas being advanced and in these circumstances permit the law to take its own course. It is not new to the municipal jurisprudence that ruinous dilapidated buildings, were required to be demolished/removed. The present building cannot be an exception.

23. In the light of the aforesaid with certitude this petition needs to be dismissed, however, considering our reasons, we cannot simplicitor dismiss this petition. It needs to be dismissed with costs, which are quantified at

Rs.5,00,000/- to be deposited within two weeks from today with the Cancer Ward of the KEM Hospital, Mumbai.

24. At this stage, Mr. Joshi Learned Counsel for the Petitioner submits that some time be granted to the members of the Petitioner to remove their belongings. Responding to such contentions, Ms. Mastakar, on instructions of one Mr. Rahul Jadhav, Assistant Engineer, (B & F), 'A' Ward, who is present in Court, states that entry into the building cannot be permitted as the building is in a very dangerous condition and would thus pose a grave risk to anyone who enters the said building. Given this we make it clear that if the member of the Petitioner enters the said building they do so at their own risk and consequences and without holding the Municipal Corporation, State authorities or third parties liable for any civil or criminal consequences in the event of any untoward incident of collapse. Further the petitioner and its members shall jointly and severally be liable for any damage or loss to life, which would be suffered by any third parties in both civil or criminal proceedings. We thus cannot accede to this request. We leave it to the competent officers of the Municipal Corporation to take appropriate decision in this regard if at all any member of the petitioner intends to access the said building.

[ARIF S. DOCTOR, J.]

[G.S. KULKARNI, J.]

Meera Jadhav