

Bhiwandi bldg collapse: HC issues notice to state, five municipalities

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Taking suo moto cognisance of the Bhiwandi building collapse tragedy that has claimed over 40 lives, the Bombay High Court on Thursday issued notices to five municipal corporations and the state government.

A division bench of Chief Justice Dipankar Datta and Justice Girish Kulkarni, while hearing a separate petition pertaining to illegal and unauthorised constructions in the Kalyan-Dombivli region, termed the Bhiwandi incident "very serious."

The BMC, and civic bodies of Thane, Navi Mumbai, Bhiwandi-Nizampur and Kalyan-Dombivli have been asked to apprise the court by October 8 of the status of dangerous buildings in their jurisdiction, and the steps taken to prevent tragedies like the September 21 incident.

"A building has collapsed in Bhiwandi, several lives have been lost. We are told the situation is quite serious in Mumbai too," the bench observed, adding, "We are making the



Over 40 people have died in the tragedy

state and all municipal corporations parties, and issuing notices."

State Advocate General Ashutosh Kumbhakoni told the court, "There have been cases of rampant unauthorised construction and tenants occupying dilapidated structures despite evacuation notices in Mumbai and neighbouring areas."

The three-storey building crashed in the early hours of Monday.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

**SUO-MOTU PUBLIC INTEREST LITIGATION NO. OF
2020**

IN THE MATTER OF :- Building collapses and lives lost.

- 1 Bhiwandi Nizampur Municipal Corporation**
- 2 Municipal Corporation of Greater Mumbai**
- 3 Kalyan Dombivali Municipal Corporation**
- 4 Ulhasnagar Municipal Corporation**
- 5 Thane Municipal Corporation**
- 6 Vasai Virar Municipal Corporation**
- 7 Mira-Bhayander Municipal Corporation**
- 8 Navi Mumbai Municipal Corporation**
- 9 State of Maharashtra
Through Secretary,
Urban Development Department
AND**
- 10. State of Maharashtra
Through Secretary,
Home Department.**

**CORAM: DIPANKAR DATTA, C.J.AND
G.S.KULKARNI, J.**

**DATE : SEPTEMBER 24, 2020.
(THROUGH VIDEO CONFERENCE)**

P.C:-

Deeply pained and saddened by some of the recent incidents of collapse of residential buildings resulting in loss of lives, we desire to initiate this *Suo-motu* Public Interest Litigation.

2. We refer to the news report in the Times of India dated 23rd September, 2020 which reported that the building known as “Jilani Building” at Bhiwandi collapsed at about 03.00 a.m. on 21st September, 2020. The reporting is of 16 persons being killed which included 8 minors. It is reported that this building was not included in the list of dangerous structures so notified by the Bhiwandi Nizampur Municipal Corporation. It is further reported that in the past three years, several notices were issued in respect of this building by the Municipal Corporation and the land owner/developer of the building, Shri Sayyed Ahmed Jilani was called upon to get the building vacated due to its dilapidated condition. Last such notice is reported to have been issued in February 2020. If this is true, it is unfortunate that no action was taken by the Municipal Authorities to get the building

vacated. It is also reported that this building was constructed sometime in the year 1984 before the Municipal Corporation was formed and later on, two illegal floors came to be constructed. However, no action was taken by any of the Municipal Authorities and its officers. There is a further news report in the Times of India dated 24th September, 2020, that now about 38 people have succumbed in this building collapse.

3. This incident is not a solitary incident. Earlier to this, in the month of August, a three storey building known as “Tariq Garden” in the Mahad Town (Raigad District) had collapsed in which 16 persons were reported to have died including two senior citizens.

4. Such incidents of building collapse are happening frequently, almost every year and more particularly during the monsoon months. As per the report dated 24 September 2020 of the Economic Times, there were 1472 incidents of building collapse in Mumbai city and suburbs during 2015-2019 in which 106 people lost their lives while another 344

were injured. One of the major incidents of the building collapse was of the Siddhi Sai building in suburban Ghatkopar in July 2017 in which it is reported that 17 residents were killed. We are immensely concerned at this sad state of affairs.

5. Some of the immediate issues passing in our mind are :-

(I) As to whether the municipal bodies are completely helpless to prevent such collapses and prevent loss of lives?

(II) Is there not any machinery available with such municipal bodies to prevent such occurrences ?

(III) Apart from old buildings, are newly constructed buildings (say, thirty/forty years old) too collapsing ?

(IV) Is there any procedure to identify such buildings which are likely to collapse ?

(V) Is there a mechanism in place for structural audit of the buildings?

(VI) Isn't there a need for a uniform mechanism in this regard applicable to these Municipal Corporations ?

(VII) Is there a mechanism to fix accountability on the

concerned persons, for not taking any action against illegal construction ?

(VIII) Has any survey been conducted regarding unauthorised structures/buildings in each of the Municipal Corporation areas and what steps are contemplated to raze the same?

(IX) Whether or not, there is need for setting up a public grievance cell where citizens can take their complaints ?

6. These are some of the issues with which we would be concerned, our intention being that the civic bodies and the State Government take concrete and effective steps to prevent loss of innocent lives of the residents of such dilapidated or dangerous buildings. We are of the *prima facie* opinion that the right of the citizens to live in safe buildings and environment would be a facet of the right guaranteed by Article 21 of the Constitution of India and it would be the duty of the civic bodies to bring about a situation that all buildings within their respective municipal jurisdictions are legal, sustainable and safe. Also, in our *prima facie* opinion, it would be an absolute obligation of the Municipal

Corporations and its officers and more particularly the Ward officers within whose jurisdiction such buildings are located and who are presumed to have complete knowledge of the conditions of the building, to take timely steps. If at the grass-root level such officers were to take effective and timely actions, such fateful incidents which have presumably occurred due to inaction and gross negligence, could have been prevented.

7. We, accordingly, issue notice to the respondents/Municipal Corporations through their respective Municipal Commissioners and to the State of Maharashtra through the Secretary, Urban Development Department and Secretary, Home Department returnable on 15 October, 2020. Reply affidavits may be filed in the meanwhile.

8. Office to forward the notices through e-mail to the respective Municipal Commissioners.

9. We would also request the learned Advocate General to appear for the State Government.

10. We appoint Mr.Sharan Jagtiani, Senior Advocate alongwith Mr.Rohan Surve, learned Advocate as *amicus curiae* to assist the Court in the adjudication of this suo-motu PIL petition.

11. Copies of the reply affidavits shall be forwarded to Mr.Jagtiani and Mr.Surve, a day prior to the next date of hearing.

12. This order will be digitally signed by the Private Secretary of this Court. Associate of this Court is permitted to forward the parties copy of this order by e-mail. All concerned to act on digitally signed copy of this order.

[G.S.KULKARNI, J.]

[CHIEF JUSTICE]

Prashant
V. Rane

Digitally
signed by
Prashant V.
Rane
Date:
2020.09.24
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+0530