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

WRIT PETITION (L) NO. 21242 OF 2026

M/s. Nilay Colour Industries
Through Its Proprietor
Mr. Nilay Jitendra Kapasi
Legal Heir of Jitendra Kapasi ...Petitioner

Versus

The Assistant Commissioner (K/East Ward)
Brihanmumbai Municipal Corporation
Azad Road, Gundavali, Andheri (E),
Mumbai-400069 & Ors. ...Respondents

WITH

WRIT PETITION (L) NO. 21468 OF 2026

M/s. Dharmesh Book Mfg. Co. Pvt. Ltd.
through Director
Jayesh Champshi Shah ...Petitioner

Versus

The Assistant Commissioner (K/East Ward)
Brihanmumbai Municipal Corporation
Azad Road, Gundavali, Andheri (E),
Mumbai-400069 & Ors. ...Respondents

WITH

WRIT PETITION (L) NO. 21527 OF 2026

M/s. Super Plast,
Through Its Proprietor
Vijay Tatoji Rane & Anr. ...Petitioners

Versus

The Assistant Commissioner (K/East Ward)
Brihanmumbai Municipal Corporation
Azad Road, Gundavali, Andheri (E),
Mumbai-400069 & Ors. ...Respondents

...

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Mr. Anoshak Davar a/w Mr. Dhaval Sethiya & Ms. Lalita L. Rajguru, for the Petitioners.

Ms. Shweta Patankar, for the Respondent-BMC.

Mr. Sanjeev Singh a/w Mr. Shivam P. Joshi i/by Mr. Ritesh A. Singh, for the Respondent No. 6.

...

CORAM : MAHESH CHANDRA TRIPATHI, CJ. &
ADVAIT M. SETHNA, J.

RESERVED ON : 27th OCTOBER, 2026.
PRONOUNCED ON : 18th NOVEMBER, 2026

JUDGMENT (Per, Mahesh Chandra Tripathi, CJ.)

1. Heard Ld. Counsel for the Petitioner and Ld. Counsel for the Respondents. Rule. Rule is made returnable forthwith. With the consent of the parties, heard finally.

2. In all of the Writ Petitions, common question of fact and law is involved, i.e. validity and legality of Technical Advisory Committee Report/Order dated 20th May 2026. Hence, all these Writ Petitions, with the consent of parties, have been taken up together to be heard and decided by this common judgment, taking Writ Petition (L) No. 21242 of 2026, as the lead Writ Petition. For ease of reference, the facts of the lead Writ Petition (L) No. 21242 of 2026, are taken into consideration.

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3. The instant Writ Petition is preferred under Article 226 of the Constitution of India, *inter-alia* for the following substantive reliefs:-

> *" a. That this Hon'ble Court may be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India, thereby calling for records and proceedings pertaining to the impugned Technical Advisory Committee Order dated 20/05/2026 and the minutes/proceedings of the TAC meeting held on 17/02/2026 passed by Respondent No. 6 and after examining the legality, validity and propriety thereof, be pleased to quash and set aside the same;*
>
> *b. That this Hon'ble Court may be pleased to issue a Writ of Certiorari or any other appropriate writ, order or direction under Article 226 of the Constitution of India, thereby quashing and setting the impugned Notice dated 29/05/2026 issued by Respondent Nos. 1 and 3 pursuant to the impugned TAC Order dated 20/05/2026 directing evacuation and demolition of the suit property;*
>
> *c. That this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other appropriate writ, order or direction directing Respondent No. 5 to reconsider the structural condition and categorization of the suit property after taking into consideration all structural audit reports, including the reports of M/s. Tech-Resurgo Civil Engineering Consultancy, M/s. Aarch Consultants Pvt. Ltd. and M/s. B. J. Mehta Architectural and Structural Consultants Pvt. Ltd.;*
>
> *d. That this Hon'ble Court may be pleased to direct Respondent No. 5 to conduct a fresh hearing after furnishing all structural audit reports and granting an effective opportunity of hearing to the Petitioner;*
>
> *e. That this Hon'ble Court may be pleased and to direct Respondent Nos. 4, 5 and 7 to furnish copies of all structural audit reports inspection notes, TAC proceedings, minutes, technical reports and all documents relied upon while passing the impugned TAC Order dated 20/05/2026."*

4. The Petitioner, in these proceedings have assailed the Order dated 20th May, 2026 passed by the Technical Advisory

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Committee (for short "**Impugned Order**") and the consequential Notice dated 29th May, 2026 (for short **"Impugned Notice"**) issued under Section 354 of the Mumbai Municipal Corporation Act, 1888 (for short "**MMC Act**"), directing immediate evacuation and demolition of the Petitioner's premises being Commercial Unit No. 16, in an Industrial Estate known as "Krishna Dyeing & Printing Works", situated on the property bearing Sector Nos. 46 and 47, City Survey Nos. 160 and 160/1 to 160/10, Old Nagardas Road, Taluka Andheri (East), Mumbai-400069 (for short "**Subject Property**").

FACTUAL MATRIX

5. The Petitioner claims to be the lawful tenant and occupier/legal heir of the said Subject Property. The Respondent No. 1 is the Assistant Commissioner (K/East Ward), Brihanmumbai Municipal Corporation (for short "**BMC**"), who had issued the Impugned Notice dated 29th May, 2026. The Respondent No. 5 is the Technical Advisory Committee (for short "**TAC**"), which passed the Impugned Order dated 20th May, 2026 categorizing the Subject Property as a **"C-1"** structure (i.e. unsafe/dangerous/uninhabitable structure, need to be vacated and demolished).

6. It appears that pursuant to the Order dated 23rd June 2014 passed by a Co-ordinate Bench of this Court in ***Municipal Corporation***

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of Greater Mumbai vs State of Maharashtra and Others[1], the respective Zonal Technical Committee has been constituted to decide the conflicting matters, as per policy guidelines duly accepted by the High Court in the said Writ Petition for declaring private and municipal buildings as **"C-1"** category. Accordingly, the guidelines were prepared and subsequently, the same were modified on 5th November, 2018, which highlights the jurisdiction of "K/E Ward". Accordingly, TAC constituted consisting of the following:-

> *"Dy. Ch. E(B.P.)WS-I – TAC Chairman*
> *Ward Executive Engineer K/West – Member Secretary*
> *Executive Engineer (B.P.) K/East – Member*
> *Asstt. Law Officer, K/East Ward – Member"*

7. In the instant case, K/E Ward issued a Notice under Section 353(B) of the MMC Act vide no. ACKE/Dila/80/714/BF dated 24th September, 2024 to RCC structure of Subject Property having 6 units from 16 to 21. It appears that in response to the said Notice, K/E Ward office received Structure Audit Report (for short "**SAR**") submitted on 26th March, 2025 by Structural Consultant M/s. Avon Consulting Engineers appointed by the owner M/s. Abrol Enterprises of four units under their possession having unit no. 18, 19, 20 and 21 in the Subject Property, wherein the said building is categorized as **"C-1"** category. Later on, K/East Ward office received the SAR submitted

1 Writ Petition (L) No. 1135 of 2014, Order dated 23rd June 2014

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by M/s. Aarch Consultants Pvt. Ltd. on 17th April, 2025 for the unit no. 16, 20 and 21 on behalf tenants/occupants therein and in the the said SAR, the Subject Property was categorized as "**C-3"** category (i.e. not for eviction, needs minor repairs only).

8. Furthermore, yet again the office of K/East Ward received another SAR submitted by M/s. Tech-Resurgo Civil Engineering Consultancy on 30th May, 2025 of unit no. 17 on behalf of one of the tenant Shri. Jayesh Shah by attaching photograph of units no. 17, 18 and 19 (RCC building) and thereby, categorizing unit nos. 17, 18 and 19 in **"C-2A"** category (i.e. to be evacuated and/or partial demolition requiring major structural repairs). It also appears from record that another tenant had appointed S. D. Thakare - M/s. Arch Consultants Pvt. Ltd. who submitted its SAR on 3rd June, 2025 of unit 16 and 20 (RCC Building) only categorizing these two units (16 & 20) in **"C-3"** category (i.e. no eviction, needs minor repairs only).

9. It is also reflected from the record that as the owner/tenants had carried out structural audit of individual unit separately, instead of entire structure as a whole, the Respondent-BMC had issued a Letter to the owner/tenants under no. ACKE/379/B&F/Gen on 3rd May, 2025 and a reminder Letter on 29th July, 2025 requesting them to carry out a structural audit by a licensed engineer of entire ground floor

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structure with beam and slab (except A.C. Sheet roofing structure).

10. In response to the said Letter dated 3rd May, 2025, it appears that the owner, i.e., M/s. Abrol Enterprises had carried out a structural audit dated 7th July, 2025 of the entire structure of the building having unit no. 16 to 21 including adjacent toilet (in RCC) through structural consultant M/s. Avon Consulting Engineers and the said report categorized the Subject Property in **"C-1"** category. In light of the above, upon receiving four contradictory reports (SARs) for the Subject Property, by owners as well as tenants, the Respondent-BMC referred the matter to TAC of K/East Ward under no. ACKE/527/Gen/B&F on 25th August, 2025 for further Orders.

11. Thereafter, on 29th October 2025, the TAC members unanimously concluded that a third party structural audit of the Subject Property shall be carried out from the structural consultant empannelled with BMC or through reputed agency VJTI/IIT/Sardar Patel College of Engineering (for short **"SPCE"**) college so that the TAC can take a decision in the matter.

12. Subsequently, M/s. Abrol Enterprises submitted a SAR dated 18th December 2025, carried out by SPCE appointed by Respondent No. 6, in which the Subject Property was classified in "**C-1**" category. The tenants/occupiers of Gala No. 16,17,20 and 21 herein

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of the Subject Property also got the Structural Audit carried out by M/s. B.J. Mehta Architectural and Structural Consultancy Pvt. Ltd., appointed by the Petitioners herein, who submitted its SAR dated 18th December 2025, categorizing the Subject Property "**C-2A**" category.

13. In view of the aforesaid contradictory reports including the ones submitted through the structural auditors appointed by the Petitioner, the file was once again submitted to TAC on 2nd February 2026. Thereafter, the TAC passed the Impugned Order dated 20th May 2026, where it was unanimously concluded that the SAR submitted by third party consultant, i.e. SPCE declaring the Subject Property as "**C-1**" category is accepted and that the said building should be vacated and pulled down immediately following due process of law. Consequently, the Impugned Notice dated 29th May 2026 has been issued by the Respondent-BMC which is also challenged in the instant proceeding.

SUBMISSIONS ON BEHALF OF THE PETITIONER:

14. Ld. Counsel for the Petitioner would vehemently submit that the Impugned Notice is *per se* unsustainable and needs to be set aside on the ground that the SAR dated 18th December 2025, which was submitted by Respondent No. 7-SPCE was never supplied to the Petitioner prior to passing the Impugned Order dated 20th May, 2026.

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He submits that the Petitioner had even submitted an Application on 20th February, 2026 seeking a certified copy of the said SAR and as such he tried to impress to the Court that in absence of the said report for perusal, the Petitioner was deprived of an effective opportunity to examine its contents and submit an objection thereto. In view thereof, he would urge that the same is in violation of the principles of natural justice.

15. Ld. Counsel for the Petitioner further submits that there is no such plausible reason given while rejecting and discarding the findings/suggestions by the structural consultant appointed by the Petitioner, namely, M/s. B. J. Mehta Architectural and Structural Consultants Pvt. Ltd. and in view of the said report, the Subject Property was repairable, i.e., **"C-2A"** category.

16. Ld. Counsel for the Petitioner would contend that moreover, in the instant matter, five structural audit reports were submitted before the TAC, out of which, three SARs stated in categorical terms that the Subject Property was repairable, i.e., **"C-3"** and **"C-2A"** whilst the minority (remaining two) SARs categorized the Subject Property **"C-1"** category. In such situation, reliance of the Committee on the minority opinion also creates doubt *qua* the genuineness and fairness of the Impugned Order passed by TAC and

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the Impugned Notice issued thereafter. Whereas, the Petitioner since day one had insisted that the Petitioner is inclined and willing to undertake all the necessary repairs mentioned in the **"C-3"** and **"C-2A"** SAR at its own costs.

17. Ld. Counsel for the Petitioner contends that the Impugned Order is non-speaking Order passed in arbitrary manner and does not disclose any such reason of rejecting the finding of M/s. B. J. Mehta Architectural and Structural Consultants Pvt. Ltd. and other consultants who had opined the Subject Property falls under **"C-2A"** and **"C-3"** category and is capable of repairs.

18. Ld. Counsel for the Petitioner has also vehemently contended that without admitting that certain portion of the structure require urgent attention, the Respondent Authorities failed to segregate the entire building as to whether the structure could be rendered safe through structural repair, strengthening measures of partial restoration before directing a complete evacuation and demolition of the same. Moreover, the Petitioner has also urged that the TAC is subjected to the BMC Policy Guidelines dated 25th May, 2018 governing the audit cases. Accordingly, the entire action of the Respondents is contrary to the statutory policy framed for classification of dilapidated buildings.

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19. He further urged that the Impugned Order and consequential Notice issued by the Respondent-BMC suffers from non application of mind, arbitrariness and is liable to be set aside.

20. The Ld. Counsel for the Petitioner would thus insist that the Impugned Order and Notice be set aside and the Petition be Allowed.

SUBMISSION ON BEHALF OF THE RESPONDENTS

21. *Per contra*, Ld. Counsel for the Respondent-BMC has vehemently resisted the relief as prayed by the Petitioner and submits that in the instant matter, admittedly, four contrary structural audit reports of the Subject Property had been received by the Respondent-BMC either by the owners or by the tenants of the said property. Later on, the file was submitted to TAC on 25th August, 2025 and with due notice to the parties, a site visit of Subject Property by TAC was held on 7th October, 2025 at 11:30 a.m. and subsequently a TAC meeting was held on the same day.

22. Ld. Counsel for the Respondent-BMC submits that considering various observations and discussions on the aforesaid SARs that were submitted by all the consultants, the TAC members unanimously resolved on 29th October, 2025 that a third party structural audit of entire building with all requisite test shall be

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carried out through a structural consultant empanelled with BMC or through a reputed agency i.e. VJITI/IIT/SPCE and submit its SAR before it so that the TAC shall take appropriate decision in the said matter.

23. Ld. Counsel for the Respondent-BMC submits that BMC through an office email dated 11th November, 2025 addressed various structural consultants empaneled with BMC and reputed agency such as VJTI/IIT/SPCE for their consent to carry out such structural audit of the Subject Property. In response to the office email, the BMC had received consent of fourteen empaneled structural consultants and one reputed agency i.e. Respondent No.7-SPCE. She further submits that the Respondent-BMC had also sent a letter to the owners/occupiers/tenants to submit consent letter for appointing any consultant from the list attached for carrying out ND Test and SAR of all the units i.e. from 16 to 21 of the Subject Property within three days from the receipt of the said letter.

24. Ld. Counsel for the Respondent-BMC submits that in response to the said email, a consent letter was received on 3rd December, 2025 from M/s. Abrol Enterprises, i.e., owner of the Subject Property mentioning that they have appointed SPCE college to carry out said test. Later on, a SAR was received on 18th December, 2025

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from M/s. Abrol Enterprises carried out by Respondent No.7-SPCE in which the Subject Property is classified in "**C-1**" category.

25. Ld. Counsel for the Respondent-BMC further submits that M/s. B. J. Mehta Architectural and Structural Consultants Pvt. Ltd., a structural consultant appointed by the Petitioner has also submitted a SAR on 18th December, 2025 and has categorized the Subject Property under **"C-2A"** category. On receipt of two conflicting reports submitted by owners as well as tenants, Respondent Authority in its meeting and in view of the aforesaid SARs of the Subject Property were of the opinion that the matter was again to be referred to the TAC on 2nd February, 2026.

26. Ld. Counsel for the Respondent-BMC further submitted that later on, all the members of the TAC had unanimously preferred the opinion of the SAR submitted by third party consultant, i.e., SPCE for Subject Property declaring it as **"C-1"** category and accordingly, the same was duly informed to the respective concerned parties. She submits that thereafter the Respondent-BMC had issued a Notice to the owners/ landlords to submit an up-to-date list of the owners/ occupiers/tenants of the said building and further under the statutory claim in question, a Notice under Section 354 of the MMC Act had been issued, which is just, valid and sustainable.

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27. Ld. Counsel for the Respondent-BMC further submits that the TAC is a technical expert body and its constitution is drawn from the Municipal Corporation itself and there is hardly any scope to dispute the findings as returned by the TAC. She further placed reliance on a catena of judgments to submit that it is well settled that no interference is ordinarily warranted with respect to the recommendations of the TAC, being an expert body.

28. The Ld. Counsel for Respondent No. 6 i.e. owner/landlord of the Subject Property has also vehemently opposed the instant Writ Petition and submitted that the TAC is constituted under the 2018 guidelines and its technical experts' body is constituted by MCGM whose findings are based on factual assessment carried out by on site inspections and after considering all structural audit reports before it.

29. He further submits that in the instant matter, considering the rival SARs, the matter was referred to TAC and moreover the TAC Order dated 20th May, 2026 which can be seen from the relief claimed by the Petitioner has been passed after considering all the rival reports of the structural consultants and moreover even in case of demolition of the building, it neither affects nor extinguishes the tenancy/ occupancy rights of the Petitioner. Such right has been independently and adequately safeguarded under Section 354(5) of the MMC Act,

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1888 read with provisions of the Maharashtra Rent Control Act, 1999 in regard to tenanted premises in the State of Maharashtra.

30. In order to substantiate their arguments, the Ld. Counsel for Respondents have placed reliance upon the judgment passed by the Apex Court in ***Shaha Ratanshi Khimji & Sons v. Kumbhar Sons Hotel Pvt. Ltd.***[2] which is also reiterated by this Court in ***Khimjibhai Harjivanbhai Patadia v. Municipal Corporation of Greater Mumbai & Ors.***[3]

31. At this stage, Ld. Counsel for Respondent No. 6 submits that in view of the TAC report, it is not in dispute that the building is in dilapidated condition, i.e., **"C-1"** and moreover after considering the rival SARs, the TAC had opined that the building is not habitable and immediately efforts are to be made for evacuation. He further submits that the Petitioner in most casual manner has assailed the TAC report in the instant proceeding. Even though the High Court cannot substitute its own findings and only on very limited grounds, such findings can be interfered with as has been observed in various judgments.

32. Accordingly, Ld. Counsel for the Respondents would submit that there is no such plausible reason/justification to interfere

2 (2014) 14 SCC 1.
3 2024 SCC OnLine Bom 3709.

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with the Impugned Order and Notice. In view thereof, the Writ Petition is devoid of merits and deserves to be dismissed.

ANALYSIS & CONCLUSION:

33. We have heard the Ld Counsel for the parties and with their assistance perused the record before us. At the outset, we may observe that, considering the Non Destructive Testing (NDT) test results, joint site inspection and submission of consultants in meeting, the TAC members have unanimously concluded that the SAR submitted by 3rd party Consultant i.e. SPCE for the Subject Property, declaring it as **"C-1"** category (i.e. to be evacuated & demolished immediately) is accepted. Consequently, the Subject Property / said Building should be vacated & pulled down/demolished immediately following due process of law. This for the reason that the same is unsafe for habitation & may collapse without any warning, there-by endangering the life and property of residents as also the passersby. The relevant portion from the Impugned Order in this regard, is reproduced below for ready reference:

"CONCLUSION:

> *In this case, five structural audit reports received from five structural consultants M/s. Avon Consulting Engineers, M/s. Aarch Consultants Pvt. Ltd., M/s. Tech-Resurgo Civil Engineering Consultancy, M/s. B.J. Mehta Architectural & Structural Consultants Pvt. Ltd. & Sardar Patel College of Engineering categorizing the building in C-1, C-3, C-2A, C-2A & C-1 category*

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respectively.

Considering the Structural Audit Reports submitted by both the consultants, NDT test results, joint site inspection and submission of consultants in meeting, TAC members have unanimously concluded that the structural audit report submitted by 3rd party Consultant M/s. Sardar Patel College of Engineering or building known "Krishna Dyeing & Printing Works", situated at Sector 46 & 47, City Survey 160, 160/1 to 10 of Village Mogra, Taluka Andheri, Andheri (East), Mumbai 400 069, K/East Ward is declared as "C-1" category (i.e. To be evacuated & demolished immediately) is accepted & said Building should be vacated & pulled down immediately following due process of law as the said building is unsafe for habitation & may collapse without going any warning there by endangering the life and property of residents and Passerby.

Designated officer, K/East ward shall therefore take necessary action as per the policy guidelines dated 25.05.2018, following due process of law."

34. In order to appreciate the claims set up by the parties, it would be necessary to delve into the earlier TAC opinion and Order dated 29th October, 2025. For reference, the relevant portion as recorded in the Impugned Order dated 20th May 2026 in the context of the earlier order dated 29th October 2025, passed by TAC is reproduced hereunder :-

"<u>Earlier TAC opinion & order dated 29.10.2025</u>

the various technical observation and discussion on, Structural, Audit Report submitted by all the consultant, the TAC members unanimously concluded that "3rd party Structural Audit of the entire building with all requisite test shall be carried out from empanelled Structural Consultant with BMC or through reputed agency such as VJTI/IIT/SPCE college and submit the report before the committee so as to take decision in the matter."

As per the TAC order dated 29.10.2025, K East Ward has sent email on dated 11.11.2025 to various empanelled Structural Consultant with BMC and reputed agency such as VJTI/IIT/SPCE for their consent to carry out the Structural Audit of building under reference. In response to the email sent, K East Ward has received the

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consent of 14 numbers of empanelled structural consultants and 01 reputed agency i.e. SPCE college. Further, K East Ward has sent letter to owner/occupier to submit consent letter for appointing any consultant from the list attached for carrying out ND Test of all the units i.e. from 16 to 21 of Krishna Dying & Printing Works within 03 days from receipt of this letter. Further consent letter has been received dated 03.12.2025 from M/s.Abrol Enterprises mentioning that they have appointed SPCE College to carry out ND Test.

Also structure audit report has been received dated 18.12.2025 from M/s.Abrol Enterprises carried out by SPCE College in which the structure are classified in "C-1" category (i.e. To be evacuated and demolition immediately).

Also, structure Audit report received dated 18.12.2025 from tenants/occupiers Gala no. 16, 17, 20 & 21 of Krishna Dying & Printing Works Carried out by B. J. Mehta M/s B. J. Mehta Architectural & Structural Consultants Pvt. Ltd. having license no. STR/M/65 as per report the structure under "C-2A" category (i.e. To be evacuated and/or partial demolition requiring major structural repairs).

Accordingly, the matter was referred to TAC by K/East Ward u/No. ACKE/933/Gen/BAF dated 02.02.2026 for further orders."

35. We find that pursuant to the above, the matter was again referred back to TAC by K/East Ward under no. ACKE/933/Gen/B&F dated 2nd February, 2026 for further Orders. The TAC observation during site inspection are as under :-

"TAC Observation during site Inspection:

Accordingly, site was once again, inspected on 17.02.2026 by Dy. Ch. E.(BP) W.S.-1 when the Exe. Eng (BP) K/East Ward, Ward Executive Engineer "K/East Ward, A.E-II (BAF) K/East Ward and representative of Structural Consultant of M/s Avon Consulting Engineers, M/s. Aarch Consultants Pvt. Ltd. & M/s Tech-Resurgo Civil Engineering Consultancy, M/s. SPCE College, M/s. B.J. Mehta Architectural & Structural Consultants Pvt. Ltd. were present.

Following observations were made during the site visited by TAC members and K/East ward staff:-

1.	*The structure is load bearing single storey structure, with RCC slab over existing brick masonry walls.*
2.	*The slab is in deteriorating condition, corrosion of steel reinforcement, leakages and seepages through the walls &*

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	terrace slab and growth of trees.
3.	*External brick pillars are cracked, walls are cracked at many places.*
4.	*On the backside portion of the building there are multiple trees grown on walls and penetrating deeply inside the building*
5.	*From inside, the condition of the RCC beams/slabs is also found poor.*
6.	*Beams developed longitudinal cracks. Many places cover of slab concrete is fallen, reinforcement area is reduced significantly.*
7.	*The terrace waterproofing is in very poor condition showing cracks.*
8.	*The extended portion of slab serving as chhajjas over openings below has excessively cracked & sagged, cover concrete of bottom portion is fallen reinforcement is exposed.*

In the TAC hearing/meeting held on the same day i.e. on 17th February, 2026 at 05:30 p.m. under the chairmanship of Dy. Ch. Eng. (B.P.) W.S.-I along with other members.

The following Officers/Consultants were present for the meeting:-

Sr. No.	*Name of Officers/Consultants*	*Designation*
1.	*Mr. Bajirao L. Patil*	*Dy. Ch. Eng. (BP) WS-1-Chairman (TAC)*
2.	*Mr. Bhupesh M. Rane*	*Ward Exe. Eng. 'K/East' ward Member Secretary (TAC)*
3.	*Mr. Jayesh Dusane*	*Exe. Eng. (B.P.) W.S. 'K/E' ward Member (TAC)*
4.	*Mr. Sanket S. Nandole*	*Asst. Engineer (B&F) K/East Ward*
5.	*Mr. Munir Khan & Omkar*	*Structural Engineer (M/s Avon Consulting Engineers)*
6.	*Mr. Salil Thakare*	*Structural Consulting Engineer (M/s. SPCE College)*
7.	*Mr. Prasad Gharat*	*Structural Consulting Engineer (M/s. SPCE College)*
8.	*Mr. Nihar Mody*	*Structural Consulting Engineer*

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		(M/s. B. J. Mehta Architectural & Structural Consultants Pvt. Ltd.)

36. In the aforementioned backdrop, we have considered the thrust of the Petitioner's submission that the Petitioners have been deprived of principles of natural justice which has caused grave and irreparable prejudice to them. This in as much as the Petitioners were never accorded an opportunity of dealing with and/or objecting the SAR dated 18th December 2025 submitted by the Respondent No.7-SPCE, which categorizes the Subject Property as "**C-1**". Moreover, the SAR of the structural consultant appointed by the Petitioner i.e. M/s. B. J. Mehta Architectural and Structural Consultants Pvt. Ltd. categorizing the Subject Property as "**C-2A**", was never considered.

37. However, a careful perusal of the Impugned Order passed by the TAC would demonstrate that such submissions/allegations of the Petitioners are misconceived. There is a detailed discussion in the Impugned Order in this regard, where the TAC has perused the SARs received from five structural consultants, namely, M/s. Avon Consulting Engineers, M/s. Arch Consultants Pvt. Ltd., M/s. Tech-Resurgo Civil Engineering Consultancy, M/s. B. J. Mehta Architectural & Structural Consultants Pvt. Ltd. & Sardar Patel College of Engineering categorizing the building in C-1, C-3, C-2A, C-2A and C-1

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category respectively. While considering the SARs submitted by five different consultants in detail, the committee consisting of eight Officers/Consultants *(supra)* made critical observations/conclusions as per SAR/Representation of Consultant, which are reproduced below for ready reference :-

> *"Critical Observations / Conclusions as per SAR / Representation of Consultant as below:*
>
> *The Structural Auditor, M/s. Avon Consulting Engineers, stated that they had nothing add anything new. They wanted to proceed as per the first report.*
>
> *The Structural Auditor, M/s. Avon Consulting Engineers, stated that they have appointed by the owner M/s. Abrol Enterprises and they inspected the site on March 2025 of four units under their possession having unit no. 18, 19, 20 & 21 and they still stand on the said report. The structure is approximately more than 50 years old. The said building is load bearing single story structure, with R.C.C. slab over existing brick masonry walls.*
>
> *They further stated that major damage is observed on the external and internal plaster. Leakage/Seepage observed at many locations. Plumbing Damages are observed at many places. Columns & Steel are exposed at many locations. Doors & Windows don't close at some locations. Cracks are seen in the beam and column. Deflections/Sagging are observed at some locations. Staircase steps are majorly damaged. Terrace & Waterproofing are Bad Condition leakages and damages observed at many locations.*
>
> *They further stated that all NDT tests were carried out by them. Ultrasonic pulse velocity and Rebound hammer test results were average and The results shows the probable strength of the structure. Carbonation depth test result shows bad. Half cell potential test is indicating a 90% probability of corrosion in the reinforcement.*
>
> ***Classified the buildings' category is C-1 (to be evacuated and demolished immediately)**.*
>
> *The Structural Auditor, M/s. Aarch Consultants Pvt. Ltd., stated that they had nothing add anything new. They wanted to proceed as per the first report.*
>
> *Also, other tenants/occupants had submitted the structural audit report date 17.04.2025 of unit no. 16, 20 & 21 through M/s. Aarch Consultants Pvt. Ltd.*
>
> *They further stated that the external walls of the building are observed to be in good condition. The steel components are*

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observed in a painted and maintained state and are considered safe and stable. There are no signs of structural distress in any of the structural members. The Asbestos cement/metal steel sheet rod material has no major crack or any major damage observed. The checking of the foundation's plinth found it satisfactory, with no signs of settlement at present.

They mentioned the structural repair cost is 1000/- per sq.ft. the building enhancement in life of structure after repairs may be about 30 more years. The structure is considered safe and stable with a healthy future habitable life.

Categorizing building in C-3 category (I.e. No eviction needs minor repairs)

Structural Auditor, Ms. Akshata Deshpande, M/s. Tech-Resurgo Civil Engineering Consultancy appointed by one of the tenant Shri Jayesh Shah carried out structural audit of only one unit no. 17 and submitted structural audit report dated 30.05.2025.

They further stated that slabs and beams are cracked at many places with concrete cover fallen, reinforcement exposed and corroded. Severe seepage is observed and dense vegetation growth with roots penetrating deeply into the masonry is present at the back of the building, contributing to decay. Further stated that the staircase leading to the terrace is in poor condition with cracked steps. The terrace slab is cracked and the waterproofing layer is deteriorated.

On the basis of their test finding, the consultant M/s. Tech-Resurgo Civil Engineering Consultancy had concluded that, Rebound Hammer Test indicate condition of concrete is average at most locations. Ultrasonic Pulse Velocity Test indicate quality of concrete in all the RCC elements tested is poor. The compressive strength of the brickwork is observed satisfactory.

They mentioned the structural repair cost is Rs 700 to 800 per sq. ft. ***Classified the buildings' category is C-2A (i.e. To be evacuated and/or partial demolition requiring major structural repairs)****.*

The Structural Auditor, M/s. Sardar Patel College of Engineering, stated that they have appointed by the owner M/s Abrol Enterprises and they inspected the site on 05.12.2025. The structure is approximately more than 50 years old.

They further stated that many external brick pillars are cracked at the junction of beam and pillar. At many places, plaster is fallen, brickwork is exposed. The plaster on the beams on external faces is in poor condition. The peripheral beams of the structure are sounds hollow. At many places the cover of the concrete of beams is fallen, reinforcement is exposed, excessively corroded, broken. The walls are cracked at many places. On the backside portion, there are multiple trees grown on the walls of the building with roots penetrating deeply inside the building and into the junction of the compound wall and external backside wall of the building. The

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roots of these trees are also penetrating deep in the wall and structural members. There were some units not in use. The condition of walls and RCC beams and slabs is extremely dangerous in these units. The extended portion of the terrace slab is serving the purpose of RCC Chajja for the openings on the ground floor. These extended portion of terrace slab have excessively cracked and sagged and are in extremely dangerous condition. The cover concrete of the bottom portion of these extended terrace slabs is fallen and reinforcement is exposed, severely corroded, area of steel reinforcement is reduced significantly and at many locations the reinforcement is also broken.

The external open staircase is in poor condition. The steps are broken at almost all places. There is a huge tree located very close to the staircase entry. The roots of this tree have damaged the steps of this staircase. The terrace waterproofing is in poor condition because of non-maintenance and non-cleanliness. There are cracks observed on top surface of the waterproofing and terrace waterproofing is in poor condition. The parapet walls and on the terrace are also cracked at many places. There is a huge tree located very close to the staircase entry. The branches of this tree have damaged the parapet wall of the building. At many places on the backside portion, there are multiple trees grown on the walls of the building with roots penetrating deeply inside the building and into the junction of the compound wall and external backside wall of the building. The roots of these trees are also penetrating deep in the wall and structural members.

They further stated that all NDT tests were carried out by them. Ultrasonic pulse velocity results were poor and the quality of concrete is shows doubtful at all the locations tested. Rebound hammer text results reveal the strength of concrete is poor and high due to carbonation. Half cell potential test is indicating 90% probability of corrosion.

***Classified the buildings category is C-1 (to be evacuated and demolished Immediately)**.*

The Structural Auditor, M/s B. J. Mehta Architectural & Structure Consultants Pvt. Ltd., stated that they have appointed by the tenants/occupier and they inspected the site on 03.12.2025 and they still stand on the said report. The structure is approximately more than 55 years old.

They further stated that cracked concrete in R.C.C Beams, Chajjas & projection slabs were observed. Spalled concrete with exposed and corroded reinforcement in RCC Beams, Chajjas & Projection slabs were observed. Load bearing walls were found cracked at few places. Seepages marks were observed through Chajjas bottom. Plant growth & fungus formation was observed. Horizontal separation cracks at the junction of RCC Beam & Masonry walls were observed at many places. Existing Rain Water

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pipes were found damaged at few places. Parapet walls exhibited discolored and cracked plaster at many places.

They further mention that A.C. sheet roofing was found cracked & Damaged at few places. Dried up Seepages through walls & slabs were noted at many places. Floorings were found cracked at few places. Internal Paint was found discoloured & peeling of paint noted. Load bearing walls were found cracked at few places. They further stated that all NDT tests were carried out by them and the result shows poor.

Classified the buildings' category is C-2A (ie. To be evacuated and/or partial demolition requiring major structural repairs)*."*

38. The above would unequivocally establish that the TAC has duly considered the matter holistically including the SAR submitted by the Respondent No.7-SPCE, which categorizes the Subject Property as "**C-1**", as also the SAR of the structural auditor /consultant appointed by the Petitioner i.e. M/s. B. J. Mehta Architectural and Structural Consultants Pvt. Ltd. which classified the Subject Property as "**C-2A**". The TAC, as an expert body, after having perused all such SARs has returned reasoned findings to conclude that the Subject Property does fall in "**C-1**" category and not in "**C-2A**" category. In view thereof, we are not persuaded to accept the submission of the Petitioner *qua* alleged violation of principles of natural justice, considering the comprehensive findings of the TAC as noted (*supra*).

39. At this juncture, it would be apposite to refer to the order dated 23rd June 2014 passed by the Co-ordinate Bench of this Court in ***Municipal Corporation of Greater Mumbai*** *(supra).* In the said case,

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the Co-ordinate Bench of this Court was confronted with a situation dealing with the difficulties faced by the MCGM in implementation of Notices issued under Section 354 of the MMC Act. This, more particularly in the absence of any specific provisions in the said Act for removal/evacuation of occupants of dilapidated buildings. To make this effective and workable and considering the human problems, the Court felt it just and proper to issue certain guidelines. It is in such context that came about the genesis of reference to TAC, particularly when the buildings are highly dilapidated, dangerous and/or classified under "C-1" category.

40. The Co-ordinate Bench of this Court held that in such event, if the owners and/or occupants bring conflicting reports on the status of the building, the Corporation shall refer the matter to TAC under the Chairmanship of Director (ES & P) with atleast 3 other members namely City Engineer, Chief Engineer (DP) and Chief Engineer (P&D). The Co-ordinate Bench of this Court has enumerated guidelines to be followed by TAC when a matter in case of a dilapidated, dangerous and/or C-1 category building is referred to it.

41. The Co-ordinate Bench has also clarified that such guidelines do not any manner restrict the power, scope and purpose of Section 354 of the MMC Act and they are issued only to make Section

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354 effective and to ensure that human lives are not compromised in any manner. The aforesaid guidelines were later evolved/finalized by the Respondent-BMC in the year 2018.

42. The aforesaid order passed by the Co-ordinate Bench of this Court *(supra)* embraces dilapidated/ dangerous condition of a building which is referred to TAC, particularly when there are conflicting SARs. The said decision *(supra)* has been subsequently followed in a catena of judgments of this Court. More particularly in the cases of ***Vivek Shantaram Kokate vs The Municipal Corporation of Greater Mumbai & Ors.***[4] and ***Khimjibhai Harjivanbhai Patadia*** *(supra),* this Court has consistently noted that the writ jurisdiction under Article 226 of the Constitution of India would not be used by Courts to substitute their own views for technical/fact finding assessments made by the TAC as an expert body, unless gross perversity/fraud or complete non-application of mind is established.

43. Furthermore, we find that the Co-ordinate Bench of this Court in ***Andheri Purab Paschim Cooperative Housing Society Ltd. v. Municipal Corporation of Greater Mumbai & Anr.***[5] has held that the purpose of establishing the TAC was to provide a check and balance against the unilateral declaration of building as dilapidated. Moreover,

4 Writ Petition No.931 of 2019 dated 19th August 2019.
5 2023 SCC OnLine Bom 2522.

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the intent behind creating such TAC Committee was not to provide individuals with yet another cause of action to adjudicate and upset the findings of TAC on factual and technical aspects, being otherwise as per law, that too, in writ jurisdiction.

44. In view of the aforesaid, similar matters have already been dealt with by this Court in various judgments and the principles of law as culled out from these decisions were summarized by a Co-ordinate Bench of this Court in paragraph Nos. 18 to 20 of the ***Andheri Purab Paschim Cooperative Housing Society Ltd.*** *(supra).* The said paragraphs are extracted herein below for ready reference :-

> *"**18.** In Tushar Ranglidas Notaria v. Municipal Corporation of Greater Mumbai a Division Bench of which one of us (GS Patel J) was a member considered the legal position in such situations. In paragraphs 3 and 4, the Court said:*
>
> > *3. The conspectus of the petition is almost identical to nearly two dozen petitions we have heard and dealt with in the last two or three months : **tenants of a building that is over 30 years old having received an evacuation notice from the MCGM, and having taken no steps by themselves or by compelling the owner to carry out essential structural repairs, then rush to court and claim (a) that the building does not need demolition or evacuation; (b) that it is structurally sound; and (c) that the petitioner-tenants will continue to live there 'at their own risk' and will give an 'undertaking' to assume all liability, including to third parties**. In at least nine separate judgments delivered recently we have set out the law on the subject. We begin this discussion, therefore, by noting these decisions and summarizing the principles in law that apply to such a situation. The decisions are:*
> >
> > ***(a)** Mahendra Bhalchandra Shah v. Municipal Corporation of Greater Mumbai, Writ Petition (L) No. 1755 of 2019, decided on 24th June 2019;*
> >
> > ***(b)** Inderjit Singh Sethi v. Municipal Corporation of Greater*

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Mumbai, Writ Petition No. 880 of 2018, decided on 9th July 2019;

(c) *Ramesh Nathubhai Patel v. State of Maharashtra, Writ Petition No. 1500 of 2016, decided on 9th July 2019;*

(d) *Kutbi Manzil Tenants Welfare Association v. Municipal Corporation of Greater Mumbai, Writ Petition No. 2451 of 2018, decided on 16th July 2019;*

(e) *Sundar R. Gavaskar v. Municipal Corporation of Greater Mumbai, Writ Petition No. 602 of 2019, decided on 29th July 2019;*

(f) *Richard Gasper Mathias v. Municipal Commissioner, Municipal Corporation of Greater Mumbai, Writ Petition No. 2108 of 2018 decided on 1st August 2019.*

(g) *Vivek Shantaram Kokate v. Municipal Corporation of Greater Mumbai, Writ Petition No. 931 of 2019, decided on 19th August 2019.*

(h) *Khalil Ahmed Mohd Ali Hamdulay v. Municipal Corporation of Greater Mumbai, Writ Petition (L) No. 2147 of 2019, decided on 22nd August 2019.*

(i) *Pandurang Vishnu Devrukhar v. State of Maharashtra, Writ Petition No. 2687 of 2018, decided on 27th August 2019 (pertaining to Municipal tenants).*

4. The principles of law culled from these decisions are these:

(a) ***It is never for a Court in exercise of its limited writ jurisdiction under Article 226 of the Constitution of India to decide whether a particular structure is or is not actually in a ruinous or dilapidated condition*** *: see : Diwanchand Gupta v. NM Shah; Nathubhai Dhulaji v. Municipal Corporation;*

(b) ***The rights of tenants/occupants are not harmed by demolition ordered and carried out. These rights are adequately safeguarded by Section 354(5) of the MMC Act and by the provisions of the governing Maharashtra Rent Control Act, 1999 which fully occupies the field regarding tenancies of built premises in Maharashtra.*** *The Supreme Court decision in Shaha Ratansi Khimji & Sons v. Kumbhar Sons Hotel Pvt. Ltd.now makes it clear that the rights of tenants and occupants are unaffected by the required demolition.*

(c) *Tenants have rights but also remedies to keep their structure in tenantable repair. We have referred extensively*

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to Section 14 of the Maharashtra Rent Control Act, 1999. So far, we have not seen a single case where any tenant or group of tenants has invoked his or their rights under this Section.

(d) Section 353B casts an obligation not only on owners but also on occupiers of structures that are more than 30 years old to furnish a structural stability certificate. We have yet to see one so furnished unbidden, or, when demanded, one with anything meaningful in it.

(e) A Writ Court exercising jurisdiction will not substitute its own view for that of technically qualified experts. Equally, the Writ Court will not prefer the view of one expert over another.

(f) In order to succeed a Petitioner before the Court must be able to show that the impugned action suffers from Wednesbury unreasonableness, i.e., it is so unreasonable that no rational person could, having regard to the fact of the case, ever have reached it. There is no scope in such cases for any larger judicial review or invoking the doctrine of proportionality. In other words the decision must be shown to be utterly perverse, or in excess of authority or manifestly illegal.

(g) It is never sufficient merely to allege mala fides without particulars. While direct evidence may not always be available as proof of mala fides, they must nonetheless be established. In the words of the Supreme Court, allegations of mala fides are more easily made than proved, and the very seriousness of such allegations demands proof of high order of credibility. Courts are slow to draw dubious inferences from incomplete facts, especially when the imputations are grave and they are made against one who holds an office of responsibility in the administration. Mala fides are the last refuge of a losing litigant. Hence, whenever mala fides are alleged, we will demand proof. In case after case, we are told that the provisions of the MCGM Act are being abused by rapacious landlords in connivance with venal officers of the MCGM to order the demolition of the buildings that are otherwise structurally sound. We have yet to come across any such case. The argument is in generalities. Though it is an argument of mala fides, it is always made without any particulars whatsoever and we are asked simply to conjecture that this must be so. The law in regard to allegations of mala fides is well settled and we will draw no such general conclusion.

……

***19.** A writ court is never assessing the merits of the decision -*

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> *no writ court is in a position to decide a question of civil engineering or structural stability - but only the decision-making process; if there is indeed a 'decision' properly so called, i.e., one that determines the rights of parties. No rights of any party are ever determined by any TAC Report. It only assesses the structural condition of a building. Rights to parts or the whole of that building are entirely unaffected by the TAC Report.*
>
> ***20.** In Hind Rubber Industries, we also observed:*
>
> *22. … **It is difficult to see how the occupants and tenants can hope to dictate to a property owner what should or should not be done with the property in an absolute sense. The rights of the occupants and owners to their premises are fully and sufficiently protected in law** under the MMC Act, the Development Control Regulations and also under Rent Control Legislation (as we noted in Tushar Notaria and previous cases). Only because the building is demolished it does not follow that the rights of occupancies or tenancies will be lost. Quite the reverse : the obligations of the owner are well settled in law. It is pointless repeating these again and again. **There is, as the TAC noted, an element of public interest or public law because a dangerous building presents a threat to the occupants inside it. But there is an even larger public interest involved, one with which courts are routinely confronted, and that is the possibility of danger caused to others, i.e., outsiders and passers-by and consequent disruptions. We have had any number of instances of such collapses specially in the annual monsoon period. There is always some loss of life.***
>
> *24. **Therefore, while we do not think that a TAC report such as this can be invalidated merely because there is a rival report. Once we have rejected the absolutist argument that a report that recommends repairs is always to be preferred, and also found no procedural infirmity, the resultant order must inevitably be of rejection of the Writ Petition**. …*
>
> *(Emphasis added)"*

45. Applying the principles of law as laid down in aforesaid decisions *(supra),* this is clearly not a case where the findings of TAC are vitiated by factors such as fraud and/or gross perversity or non-application of mind and/or adopt an absolutist approach preferring a report that recommends repairs, which is certainly not the rule. In

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view thereof, the factual matrix in the given case, does not warrant any interference by this Court, in exercise of its extraordinary jurisdiction, under Article 226 of the Constitution of India.

46. In light of the conclusion given by the TAC in the Impugned Order dated 20th May, 2026 *(supra)*, thereby accepting the SAR of Respondent No.7-SPCE and categorizing the Subject Property as **"C-1"** structure, read with the decisions rendered by this Court, *(supra)*, we are of the considered view that the Impugned Order dated 20th May, 2026 read with Notice Impugned, stands legal scrutiny and are within the four corners of law.

47. For all the above reasons as discussed above, we are not inclined to interfere with the aforesaid Impugned Order dated 20th May 2026 and Impugned Notice dated 29th May 2026.

48. Accordingly, Writ Petitions are Dismissed. Rule is discharged. No costs.

[ADVAIT M. SETHNA, J.] **[CHIEF JUSTICE]**

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