

(2003) 04 BOM CK 0073

In the Bombay High Court

Case No : Appeal No. 124 of 1995 in Writ Petition No. 1987 of 1989

Jaysinh Morarji Popat and Another

APPELLANT

Vs

Gulabben Hansraj Dedhia and Others

RESPONDENT

Date of Decision : 22-04-2003

Acts Referred:

Bombay Rents, Hotel and Lodging House Rates Control Act, 1947 — Section 5(11)
Maharashtra Housing and Area Development Act, 1977 — Section 2(25), 76, 91(3),
91(5)

Citation : (2003) 3 ALLMR 665 : (2003) 6 BomCR 206 : (2003) 4 MhLj 795

Hon'ble Judges : D.K. Deshmukh, J;A.P. Shah, J

Bench : Division Bench

Advocate : S.C. Dharmadhikari, instructed by Kanga and Co, for the Appellant;
U.J. Makhija, instructed by Rustomji Ginwala For Respondent Nos. 8 to 19, G.D.
Dave, instructed by K.A. Sampat For Respondent Nos. 1 to 3 and Behram Shroff,
for the Respondent

Final Decision : Dismissed

Judgement

D. K. Deshmukh, J.—By this Appeal, appellants challenge the order dated 6/7th April, 1994 passed by the learned single Judge of this Court in Writ Petition No. 1987 of 1988. That Writ Petition was filed by the present respondents Nos. 1, 2 and 3.

2. The facts that are relevant and material for deciding this Appeal are that the present respondents Nos. 1, 2 and 3 (hereinafter referred to as the petitioners) are the legal representatives of the deceased Shri Hansraj Dedhia, who expired on 29th May, 1988, respondent No. 1, Gulabben Hansraj Dedhia is the widow, whereas respondents Nos. 2 and 3 are the sons.

The deceased Hansraj Dedhia was the tenant of flat No. 4 on the second floor of the building known as "Shakti Nivas". That building was owned by one Manghibai Morarji Narsi, who was also residing in that building. The said landlady Manghibai has expired and has left behind a Will, which has been probated. Under that Will,

income from the building is to be utilised for the maintenance of one Kasturi, a grand daughter of the landlady, during her life time and after the death of the said Kasturi, the property is to be sold and proceeds are to be divided amongst the children of original respondents Nos. 3 and 4, who are the present petitioners.

3. It appears that the building was in a dilapidated condition. Therefore, the Maharashtra Housing and Area Development Board, which is the respondent No. 5 in the present appeal and respondent No. 2 in the Writ Petition (hereinafter referred to as the "Board") issued a notice dated 21st December, 1981 to the deceased Hansraj u/s 90(1) of the Maharashtra Housing and Area Development Act, 1977 (hereinafter referred to as the "Act") stating therein that the Board proposes to undertake structural repairs to the building and for that purpose the said Hansraj is to vacate the premises occupied by him and that he has been allotted temporary accommodation. It appears that nothing further was done pursuant to that notice. Ultimately, on 14-6-1983 another notice was issued to the said Hansraj by the Board asking him to vacate the premises by 13-6-1983. It appears that even thereafter nothing happened and the deceased Hansraj and other tenants in the building including the landlady continued to occupy the building. It further appears that on 21st May, 1985, the landlady issued a notice terminating the tenancy of the suit flat of the deceased Hansraj. In this situation, while the Board was contemplating carrying on structural repairs to the building and the landlady had issued a notice terminating the tenancy of the suit flat of the deceased Hansraj, the building itself collapsed on 30th December, 1987. By a letter dated 1-1-1988 written to the Asst. Commissioner of Police, the deceased Hansraj informed that on the date of the collapse of the building the flat No. 4 was occupied by five persons namely the deceased Hansraj, his wife Gulabben, and three servants. The deceased made an application dated 3-2-1988 to the Board for transitory accommodation. In that application he stated that on the date of collapse of the building he was residing in the suit flat along with his wife and three servants. It appears that the owners of the building moved the Board for grant of No objection for construction of the new building on the same plot of land. It may be pointed out here that in the meantime admittedly the Board provided transitory accommodation to the deceased Hansraj. Thereafter, Hansraj expired on 29th May, 1988. Insofar as the application made on behalf of the owners of the building for No Objection Certificate for redevelopment or construction of a new building on the same plot of land by the owners of the property the Board by letter dated 23-4-1988 informed that the Board may grant No Objection Certificate for redevelopment of the property subject to the fulfilment of the conditions which were mentioned in the letter. One of the conditions was that all occupiers or tenants in the old building should be re-housed in the newly constructed building and every occupier shall be provided with carpet area equivalent to what he was occupying in the old building. The owners were to submit the list of occupiers of the old building and the list should also show the carpet area occupied by them in the old building. It was also stated that, if the owners are not ready to redevelop the property on the

conditions which are mentioned in the letter, the Board is likely to acquire the property so that it is made available to the Co-operative Society of the occupiers or other eligible persons for redevelopment. One of the conditions was also this that the construction of the building was to be completed within a period of 24 months from the date of starting of demolition of the old building. It was one of the conditions that suits, if any, filed by the owners in Civil Court should be withdrawn before submitting application for No Objection Certificate. It appears that with reference to the letter dated 23-4-1988 addressed by the Board to the land owners, letter dated 21-7-1990 was written by the owners to the Board stating therein that they are willing to comply with the conditions mentioned in the letter dated 23-4-1988. An undertaking on a stamp paper of Rs. 10/- dated 18-7-1990 was also enclosed with the letter dated 21-7-1990, wherein it was stated that the land owners undertake to abide by all the conditions mentioned in the letter of the Board dated 23-4-1988. It was specifically stated that all actual occupiers of the tenements will subject to the Courts orders be re-housed. The land owners also submitted the bond of indemnity dated 17th August, 1990 on a stamp paper of Rs. 50/-, wherein insofar as the Flat No. 4 is concerned, it was stated.

"In respect of the Flat No. 4 on the 2nd floor there is Court case pending and matter is subjudice. Erstwhile statutory tenant having died, his widow and sons (who were at all material times residing elsewhere) have put up a wrong claim which is in dispute, I agree to abide by the Court decision in respect of this flat."

The list of tenants/occupiers which was annexed by the landlady showed the name of deceased Hansraj as well as the area, which according to landlady, was occupied by him. It appears that final No Objection Certificate was granted to the owners by the Board by communication dated 24th December, 1991. Grant of final No Objection Certificate was subject to certain conditions. Condition No. 6 is relevant for the present purpose. Which reads as under:--

6. The two tenants namely Shri Hansraj Chanabhai and Shri Anantrao N. Gole presently staying in Boards Transit Camp are bonafide tenants of above property. You will have to be accommodate them in reconstructed building and you will be responsible if any dispute arises about area to be given to Shri Anantrao N. Gole. An undertaking to this effect should be submitted to this office within 15 days positively otherwise the NOC stands cancelled.

An undertaking referred to in the letter dated 24th December, 1991, it appears was submitted by the land owners on 12th March, 1992. The portion of that undertaking which is relevant for the present purpose reads as under:--

(a) Shri Hansraj Chanabhai Dedhia, who was in past a tenant in respect of one flat on the 2nd floor of the building "Shakti Nivas" and whose tenancy had been duly terminated and who was in unauthorised occupation of the said flat at the time of collapse of the same building, has died about 5 months after the collapse of the said building and the rights, if any, of the said Hansraj Chanabhai Dedhia

as also all the persons claiming by from through or under him or independently of the said Shri Hansraj Chanabhai Dedhia or otherwise stand extinguished. However, Smt. Gulabben, widow of the said Shri Hansraj Chanabhai Dedhia, and his two sons, Bhailal and Rameshchandra, have filed a Writ Petition in the Bombay High Court, being Writ Petition No. 1987 of 1988, wherein interim orders have been passed. I undertake to abide by the orders of the Hon''ble High/Supreme Court ultimately passed in the said Writ Petition;

4. It appears that even before the final No Objection Certificate was issued (which was actually issued on 24th December, 1991) the Board by its letter dated 21-6-1988 addressed to the advocate of the legal representatives of the deceased Hansraj informed that the owners have been given No Objection Certificate by the Board to develop the property and therefore, they should approach the owners in the matter. It appears that this prompted the legal representatives of the deceased Hansraj to file Writ Petition No. 1987 of 1988 before this Court, wherein the principal relief that was sought was that if the owners want to construct a new building on the same land, they should be directed to do so strictly in accordance with the conditions subject to which No Objection has been granted by the Board, which obliges them to grant premises to the petitioner No. 1 or in case the owners are not ready to develop the property subject to the conditions on which No Objection Certificate has been granted, the Board and the State Government should be directed to acquire the property compulsorily so that it can be redeveloped to rehouse the occupants of the building in accordance with the provisions of the Act. It may be pointed out here, at this juncture, that the petitioners have filed suit being R.A.D. Suit No. 3790 of 1990 in the Small Cause Court against the landlords, which we have been informed is still pending.

5. Writ Petition was opposed by the land owners. The defence of the landowners, in short, was that the contractual tenancy of deceased Hansraj was terminated in the year 1985 and therefore he was occupying the flat unauthorisedly and therefore being an unauthorised occupant he is not entitled to any premises in the new building. It is further their case that the tenancy rights, if any, which the deceased Hansraj had in the premises came to an end on collapse of the building on 30th December, 1987 and therefore the deceased Hansraj or his legal representatives are not entitled to claim any premises in the new building. It is further their case that on the date of the collapse of the building neither the deceased Hansraj or any members of his family were residing in the suit flat. For that purpose they rely on a letter dated 24-2-1984 written by the advocate representing the deceased Hansraj to the advocate of the land owners, wherein it is stated that the family members of the deceased Hansraj have temporarily gone to reside with their relatives and that presently only the deceased Hansraj and his servants are residing in the premises. Thus, according to the landlords, as the deceased Hansraj alone was residing in the premises when the building collapsed and as none of the petitioners were residing with him at the relevant time, the petitioners would not be entitled to any accommodation in the new

building. The petition was also opposed by Board, only insofar as the petitioners sought an order from the Court directing the Board to compulsorily acquire the property in terms of the provisions of the Act for accommodating the tenants of the collapsed building. According to the Board whether to acquire the property for constructing the new building for housing the tenants is in the discretion of the Board and therefore, the Court cannot issue a direction to the Board for that purpose.

6. Writ Petition came to be decided by the learned single Judge of this Court by order dated 6/7th April, 1994. The Court by that order held that the petitioner No. 1 Gulabben would be entitled to be accommodated in the newly constructed building. The Court, however, did not strike down the No Objection Certificate granted. However, the Court directed that the Board and the Bombay Municipal Corporation not to sanction any building plan for construction of any building on the plot unless the flat of 468 sq.ft. (carpet area) is earmarked for the first petitioner. The Board has also been directed by the Court to ensure that on the building being completed the first petitioner be put into that flat unconditionally and not subject to result of any litigation. The Court also noted that no construction has been undertaken by the owners, though building plans have already been submitted for sanction to the Bombay Municipal Corporation. The Court directed that on the plans being sanctioned the respondents Nos. 3 and 4 shall ensure that the construction should be completed within two years from the date of the judgment. The Court also noted that the validity of the No Objection Certificate was due to expire, it was pointed out that the Board will be free to consider the question whether the No Objection Certificate is to be renewed or not. However, in case the Board decides not to renew the No Objection Certificate, then it shall immediately proceed to move the State Government to acquire the property by putting up the proposal for reconstruction of the building thereon in compliance with its obligations under sections 91 and . 92 of the Act. It may be pointed out there that the Court by its judgment has held that if the owners do not come forward for construction of the building and if the Board decides not grant any No Objection to the owners for redevelopment of the property, it was statutory obligation of the Board to take steps to reconstruct the building in terms of the provisions of the Act. Insofar as this part of the order is concerned, neither the State Government nor the Board has challenged it by filing an Appeal. The present Appeal has been filed only by the owners challenging the findings recorded by the learned single Judge.

7. At the hearing of the Appeal, we were informed that the No Objection Certificate granted by the Board in favour of the owners has already come to an end and that the owners have neither carried on any development of the property pursuant to the No Objection Certificate nor has the No Objection Certificate been renewed. Really speaking, therefore, presently the questions that have been raised in the Appeal do not survive for consideration. However, considering that it is possible that the owners may apply for renewal of the No Objection Certificate and in that event the questions which are raised in the

Appeal may again arise and as we have heard the learned Counsels for both sides, we propose to decide the Appeal on its own merits.

8. The learned Counsel appearing for the Appellants submitted that the learned single Judge has committed an error in holding that the petitioner No. 1 Gulabben was residing with the deceased Hansraj at the time when the building collapsed in December, 1987. According to the learned Counsel there was enough material available on record to show that it was only the deceased Hansraj who was residing in Flat No. 4 along with his servant when the building collapsed. The learned Counsel further submits that by notice issued in the year 1985 much before the building collapsed, the tenancy of Hansraj was terminated by the landlord and therefore his occupation of the premises was unauthorised and therefore the deceased Hansraj can not be termed as "occupier" within the meaning of the Act and therefore the deceased Hansraj would not be entitled to any accommodation in the new building. It is submitted that in any case if it is assumed that what was terminated in the year 1985 was the contractual tenancy of the deceased Hansraj and he continued to be the statutory tenant of Flat No. 4, the statutory tenancy will come to an end on collapse of the building and therefore the deceased Hansraj would not be entitled to any accommodation in the new building. It is further submitted that in any case even if it is assumed that the deceased Hansraj was entitled to accommodation in the new building, as Hansraj expired even before No Objection Certificate was granted, the legal representatives of the deceased Hansraj would not be entitled to any accommodation in the new building.

9. On the other hand, on behalf of the petitioners it is submitted that finding recorded by the learned single Judge that the petitioner No. 1 Gulabben was residing with the deceased Hansraj at the time when the building collapsed is a finding of fact recorded by the learned single Judge after referring to the documents available on record in detail and therefore this Court will not be justified in disturbing that finding. It is further submitted that on the date on which the building collapsed, in any case, it is undisputed that the deceased Hansraj was occupying Flat No. 4 and therefore, Hansraj would be occupier within the meaning of the Act on the date on which the building collapsed, as the occupier of a part of the building which collapsed, certain statutory rights, under the Act vested in the deceased Hansraj, they being rights in property are heritable rights and therefore the petitioners, who are legal representatives of the deceased Hansraj would be entitled to inherit those rights and therefore would be entitled to any benefit that the deceased Hansraj was entitled under the provisions of the Act.

10. The learned Counsel appearing for the Board only submitted that No Objection issued in favour of the owners has not been renewed by the Board and the Board will abide by its statutory obligations under the Act and did not submit, anything more.

11. Now, from the rival submissions and perusal of the record it appears to be an

admitted position that the deceased Hansraj was the tenant of Rat No. 4 in the building which has collapsed in December, 1987. There is also no dispute between the parties that the tenancy of the deceased Hansraj of Flat No. 4 at least still the building Collapse would be governed by the provisions of the Bombay Rent Act. It is now a settled law that the tenancy of the tenant which is governed by the provisions of the Bombay Rent Act does not come to an end because the landlord issues a notice terminating the tenancy. It is, therefore, clear that despite issuance of notice terminating the tenancy of deceased Hansraj, in law Hansraj continued to be the tenant of Flat No. 4. Till the building collapsed, the relationship between the deceased Hansraj and the landlords was governed by the provisions of the Bombay Rent Act. But once the building collapsed, the provisions of the Act came into play. Perusal of the preamble of the Act shows that one of the reasons why the Act was enacted was to take up programme for reconstruction of building which have outlived their lives and have collapsed. Chapter VIII of the Act deals with repairs and reconstruction of dilapidated building. Section 76 deals with duties of the Board. It is clauses (d) and (e) of Section 76 which are relevant. They read as under:--

(d) to move the State Government to acquire old and dilapidated buildings and which area, in the opinion of the Board, beyond repairs; and to reconstruct or to get reconstructed new buildings thereon for the purpose of housing as many occupiers of those properties as possible, and for providing alternative accommodation to other affected occupiers;

(e) to move the State Government to acquire old and dilapidated buildings and which were once structurally repaired by the Board, but in respect of which further structural repairs are not, in the opinion of the Board possible or economical, and to reconstruct or to get reconstructed (on demolishing existing buildings) new buildings thereon for the purpose of housing as many occupiers of those properties as possible, and for providing alternative accommodation to other affected occupiers;

12. It is not in dispute that the building where the suit flat was situated was in a dilapidated condition. The Board had intended to take steps to repair the building. But before the Board could take steps to repair the building, the building collapsed. From the perusal of clauses (d) and (e) of Section 76 of the Act, it is clear that it is one of the duties of the Board to acquire the land or dilapidated building for reconstruction of new building for the purpose of housing occupiers of such building. It is, thus, clear that in the buildings which are to be reconstructed by the Board on the land of the buildings which have collapsed the persons who were occupying those buildings are entitled to be accommodated. The next provision of the Act which is relevant is Sub-section (3) of Section 91 of the Act. Which reads as under:--

91(3) Where the whole building collapses or is rendered uninhabitable, or the Board is of the opinion that the building is not capable of being repaired and rendered fit for habitation at reasonable expense, the Board may move the State

Government to acquire the property under the provisions of this Chapter and take necessary further action to construct a new building on the site to accommodate the dishoused occupiers and to provide accommodation for other purposes specified in Sub-section (2) of Section 92.

13. Perusal of above quoted provisions shows that after reconstruction of the building by the Board, in the new building occupiers of the building who have been dishoused are entitled to be accommodated. Sub-section (5) of section 91 which is the next provision which is relevant for the present purpose reads as under:--

91(5) When the whole building collapses or is rendered uninhabitable, and is, therefore, not capable of being repaired and rendered fit for habitation, and the property is not acquired under Sub-section (3), then no plan for erecting any new building on land on which such building was standing shall be sanctioned by the (Mumbai Corporation) unless a no objection certificate from the Board has been produced along with such plan for erecting such building.

14. Perusal of the above quoted provisions shows that in case the Board does not acquire the land after the building has collapsed, then the building plan for construction of new building on that land cannot be sanctioned by the Corporation unless No Objection Certificate by the Board has been produced. Therefore, whenever any owner of the land, on which the collapsed building stood, intends to construct a new building on the land, the Corporation will not sanction his building plan unless along with building plan he submits a No Objection Certificate from the Board. It is obvious that the Board will not grant No Objection Certificate to the Applicant unless the person who proposes to construct new building undertakes to abide by the conditions which are applicable, when the Board itself takes up the construction of the building. In other words, in case the Board grants No Objection Certificate to an owner for construction of new building without obliging the owner to accommodate all the occupiers of the collapsed building who have been dishoused due to collapse of the building, then grant of such No Objection Certificate would defeat the purpose for which the Act has been enacted, and therefore, whenever the Board grants a No Objection Certificate one of the essential conditions would be that in the new building dishoused occupants have to be accommodated. Perusal of the final No Objection Certificate dated 24th December, 1991 granted in the present case shows that condition No. 6 which is quoted above has been incorporated and which in terms states that the deceased Hansraj was tenant in the said building which has collapsed and that, the owners will have to accommodate him in the reconstructed building. Perusal of the letter dated 23-4-1988 from the Board to the owners shows that one of the conditions on which No Objection Certificate was granted was that all occupiers of the tenements in old building will be re-housed in the new building. It is further clear from the undertaking dated 18th July, 1990 submitted by the Land-owner that, the land-owner has undertaken that "All the actual occupiers, of the tenements will subject to Court

orders, where applicable, be re-housed." It is, thus, clear that as per the scheme of the Act insofar as the buildings which have collapsed are concerned, a right is created in the occupiers of those buildings to get accommodation in the new building that is to be erected in place of old building. The term "occupier" is defined by the Act and the definition is to be found in Section 2(25) of the Act. It is an inclusive definition and it reads as under:--

"occupier" includes -

- (a) any person who for the time being is paying or is liable to pay to the owner the rent or any portion of the rent of the land or building in respect of which such rent is paid or is payable;
- (b) an owner in occupation of, or otherwise using, his land or building ;
- (c) a rent-free tenant of any land or building;
- (d) a licensee in occupation of any land or building; and
- (e) any person who is liable to pay to the owner damages for the use and occupation of any land or building ;

15. Perusal of the above quoted provision shows that a person who is paying or is liable to pay rent to the owner is deemed to be an occupier for the purpose of the Act. It is clear that in December, 1987 when the building collapsed, the deceased Hansraj despite notice issued by the owner terminating his tenancy in 1985 continued to be the tenant by virtue of provisions of the Bombay Rent Act and therefore was liable to pay rent to the landlord and therefore Hansraj would be an occupier of the building for the purpose of the Act. As observed above once building collapses the provisions of the Act intervene and the relationship and the rights of the persons who are occupiers of the collapsed building would be governed, insofar their rights to get accommodation in the new building, by the provisions of the Act and not by the provisions of the Bombay Rent Act. Therefore, if the deceased Hansraj was the occupier of the building on the date on its collapse his right to get accommodation in accordance with provisions of the Act gets crystallized and as his right is a right given to him by a statute and as it is a right in relation to property it will be heritable right and therefore even if the fact that Gulabben was residing with him in the suit premises and therefore would be entitled to inherit the tenancy is ignored, the legal representatives of the deceased Hansraj would be entitled to inherit the rights which are conferred on him as occupier of a portion of the collapsed building by the provisions of the Act. In our view, therefore, Gulabben the petitioner No. 1 would definitely be entitled to inherit the rights of Hansraj which are conferred on him by the provisions of the Act, and in our opinion, therefore, no fault can be found with the finding recorded by the learned single Judge that the petitioner No. 1, Gulabben would be entitled to allotment of accommodation in the new building, which would be constructed pursuant to the No Objection Certificate issued in favour of the owners by the Board.

16. It appears that insofar as those buildings to which provisions of the Act are applicable, which are occupied by tenants collapse, under the scheme of the Act two options are available, (i) First option is when the property is acquired at the instance of the Board by the State Government, a building is constructed in accordance with the provisions of the Act and persons who are occupying the building before its collapse are accommodated in that building. In such an event relationship between the Board and the persons who are allotted accommodation would be governed by the provisions of the Act, and the other laws that may be applicable and the landowners would be out of picture as the property is acquired.

(ii) Second option is that the Board issues No Objection Certificate to the owner of the building for redevelopment. In such an event, one of the conditions on which redevelopment is permitted would always be that the occupants who were occupying the building before it collapsed would be accommodated in the new building. Till the building is reconstructed and the allotment is made, the parties would be governed by the provisions of the Act. Whether after allotment the occupation of the premises by the person to whom it is allotted and the owner of the building would be governed by the provisions of the Act or by the relevant Rent law is a question which may arise, but that question does not arise in the present case and therefore, we are not called upon to decide that question. In the present case, we are concerned with the situation where the Board has granted Ho Objection Certificate to the owners to reconstruct the building and one of the conditions of the No Objection being that the deceased Hansraj, who was admittedly an occupier of the collapsed building would be given premises in the new building. The entitlement of the deceased Hansraj would be governed by the provisions of the Act. Had Hansraj not died and had continued to live till the reconstruction is completed, even according to the owner he would have been entitled to the allotment of the premises in the new building. This statutory right, to get accommodation in the new building gets vested in the deceased Hansraj on collapse of the building. That statutory right was right to get accommodation in the new building. Therefore, it would be a right in property and therefore it would be heritable. In our opinion holding that death of Hansraj after collapse of the building result in defeating his statutory right to get accommodation in the new building will frustrate and defeat the very purpose of the Act and therefore, in our opinion, the learned single Judge was perfectly justified in holding that the widow of the deceased petitioner No. 1 would be entitled to be accommodated in the new building.

17. Perusal of the judgment of the learned single Judge shows that the learned single Judge has referred to various documents produced by the rival parties on record and has recorded a finding of fact that on the date of the collapse of the building the petitioner No. 1 Gulabben was residing with the deceased Hansraj. The learned single Judge has referred to contemporaneous correspondence carried on by the deceased Hansraj as also the ration card. We find ourselves in complete agreement with the reasons given by the learned single Judge for recording the finding that the petitioner No. 1 Gulabben was residing with the

deceased Hansraj when the building collapsed. In our opinion, the learned single Judge has correctly interpreted the contents of the letter dated 24-2-1984 which was the only document relied on behalf of the owners to contend that at the time of collapse of the building the deceased Hansraj was the only person residing in Flat No. 4 along with his servant. Finding that the petitioner No. 1 Gulabben was residing with the deceased Hansraj at the time when the building collapsed being essentially a finding of fact which is based on appreciation of documentary evidence on record and as we find ourselves in complete agreement with that finding obviously that finding cannot be disturbed. As observed above, insofar as the directions issued by the learned single Judge to the Board is concerned, the Board has not challenged that part of the order by filing an Appeal. Even before us the direction was not challenged and no submissions were made by the learned Counsel appearing for the Board insofar as those directions are concerned. In this view of the matter, therefore, in our opinion, it would be appropriate to direct the Board to proceed in accordance with the directions issued by the learned single Judge and the provisions of the Act, in case the owners do not apply for renewal of the No Objection Certificate or in case they apply for such renewal and the Board decides not to grant the renewal. Insofar as the directions issued by the learned single Judge against the owners are concerned, we do not find any reason to interfere with the same.

18. In the result, therefore, the present Appeal fails and is dismissed with no order as to costs.