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## BMC can't build mall on premises meant for edu: HC

TNN, Apr 7, 2011, 04.23am IST

MUMBAI: A commercial mall cannot be allowed to come up in place of a building given to the Brihanmumbai Municipal Corporation (BMC) by a private trust for educational purpose, the Bombay high court said on Wednesday.

The observation came during the hearing of a petition filed by Comet Media Foundation, an NGO working to educate children, against the eviction notice served by the BMC to the occupants of the Topiwala building on Lamington Road. Many NGOs, including Comet Media and Dignity Foundation, used to operate out of the south Mumbai building which earlier housed a municipal school.

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A division bench of Justice Ranjana Desai and Justice R G Ketkar has now directed the BMC to file a detailed affidavit explaining what it proposes to do after demolishing the Topiwala building. The court has also sought the record of the trust deed signed by the Topiwala family while handing over the building to the civic body in 1980s. "We want to know what the Topiwala family gave the building for. We would express that you can't have a mall," said Justice Desai.

In March, the BMC had served an eviction notice on the NGO, saying the building was dilapidated.

Petitioner's counsels, Rajni Iyer and Deepa Bajaj, told the court that the NGO had appointed structural engineer Shirish Patel to assess the building's condition. Iyer told the court that the BMC has been sitting on the NGO's application for repairs.

Justice Desai said, "The report suggests that there is deterioration and structural repairs have to be done before monsoon. We have to keep this

in mind."

BMC's counsel Ram Apte argued that the NGO was only granted permission to use the premises and it did not have any right over it. Iyer, on the other hand, said the NGO's right over the premises was by virtue of its involvement in educational activity, which was why the Topiwalas had given the building to the BMC.

The court has posted the matter for April 13.

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