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'What's coming up on Topiwala land?'

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In a categorical observation, the Bombay high court on Wednesday said it will not allow Brihanmumbai Municipal Corporation (BMC) to put up a mall in place of a building given to it by a private party to promote education.

A division bench of justice Ranjana Desai and justice RG Ketkar were hearing a petition filed by an NGO Comet Media Foundation challenging the eviction notice issued to them by the BMC. Eight other NGO's like Dignity Foundation, Salam Balak, Granthali and Praja were operating from the Topiwala Land Building,

Lamington Road which was earlier a municipal school. Even the School Tribunal, which resolves school related issues, is housed in the same building.

"We will not allow a mall to come up (in place of building) which is given for educational purpose," said justice Desai. "We want to know what the Topiwala family gave it for. What are you (BMC) going to do there," she added.

The judges have directed the BMC to file a detailed affidavit "indicating what it proposes to do in case they demolish the building and what structure it proposes to put up in its place". They have also directed the civic body to produce trust deed signed by the Topiwala family while handing the building to it in the 1980s.

Comet's advocate Rajni Iyer argued that a report by structural engineer Shirish Patel said that the building has not been looked after and is actively allowed to deteriorate. She added said the report does not consider the building to be "so bad and warrants cheaper solution than demolition". The judges pointed out that the report also states that structural repairs have to be urgently carried out before monsoon. Iyer said the application for repairs is pending with the corporation. "You may have a very good case but we are worried about your safety," said justice Desai.

The BMC's advocate Ram Apte said that Comet was given permission to use the premises and that they do not have any right over it. Iyer riposted that their right over the premises was by virtue of them being involved in educational activity which is the main objective for which the Topiwala family had given the building. "We will not allow the corporation to flout the particular purpose for which it was given. You (BMC) cannot go on having malls and dishouse people," said justice Desai. Apte said that the BMC has no plans to build a mall and that the "allegations are being made in the air". The matter has been adjourned to April 13, 2011.

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