

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

(1)

WP NO.2636/2014

16 WRIT PETITION NO. 2636 OF 2014

Shaikh Ejaj s/o Shaikh Yasin, Age 35 years,
Occupation Business, r/o near Old Bus Stand,
Kannad, Tal.Kannad, Dist. Aurangabad.

...PETITIONER

versus

The State of Maharashtra through the
Secretary to Urban Development & Town
Planning Department, Mantralaya, Mumbai 32

AND THREE OTHERS.

...RESPONDENTS

...
Advocate for Petitioner : Mr.Devakate Anant R
AGP for Respondent State: Mrs.M.A.Deshpande.
Mr.Shete Sadashiv S., Adv., for R/3.

...
CORAM : R. M. BORDE & P.R. BORA, JJ.
Dated: June 23, 2015

PER COURT :-

1. Leave to add Sub Divisional Police Officer, Kannad, as party respondent. Learned A.G.P. waives service.
2. The petitioner is making grievance in respect of raising of irregular construction over Municipal property. It is pointed out that in an identical situation earlier also, writ petition was presented against the same Municipal Council, seeking direction in respect of removal of encroachment. This Court, on consideration of the contention of the petitioner, in Writ Petition No.885/2005, issued directions to the Municipal Council to remove encroachment on public roads, footpaths and open places and concerned Police Station officials were directed to offer assistance to the Chief Officer of the Municipal Council, Kannad, to take steps.

agp/-

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3. It is stated that in the year 2009, the encroachments were removed, however, it is informed that the encroachers have again raised unauthorized construction over reservation site No.27.

4. The Municipal Council is statutorily responsible for ensuring removal of encroachment over the Municipal property. If the local authority fails to discharge its statutory duty, appropriate steps need to be taken against the Council. In the instant matter, it does appear that the Municipal Council has failed to perform its statutory obligation.

5. In this view of the matter, we dispose of the writ petition by issuing directions to the Municipal Council, respondent no.3, to take steps for removal of encroachment over reservation site No.27, and so also, encroachment on any other reservation site, Municipal property or the public streets, within the Municipal limits of Kannad Municipal Council, shall also be removed by initiating a special drive.

6. The Municipal Council shall take appropriate steps as expeditiously as possible, and preferably, within three months from today by observing the procedure established under the The Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965. The Collector as well as the concerned Police, including respondent no.4 - Sub Divisional Police Officer - shall render necessary assistance to the Chief Officer for removal of the encroachment over the Municipal properties, roads, footpaths, open spaces, etc.

7. With the directions as above, the writ petition stands disposed of.

(P.R. BORA, J.)

(R. M. BORDE, J.)

agp/-