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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 4278 OF 2015

NARAYAN DAGADU BARI AND OTHERS
VERSUS
JALGAON MUNICIPAL CORPORATION, JALGAON

...

Advocate for Petitioners : Mr.Patil Vijay B.

Advocate for Respondents : Mr.Patil Pradip R.

...

CORAM: RAVINDRA V. GHUGE, J.

DATE :- 07th July, 2015

Per Court:

1 The Petitioners are assailing the order dated 17.01.2015 delivered by the Trial Court under Order 39 Rule 1 of the Code of Civil Procedure below Exhibit-6 in RCS No.484/2014. Similarly, the Petitioners are assailing the judgment and order dated 19.03.2015 delivered in Miscellaneous Civil Appeal No.11/2015 filed by them. The Petitioners have, thus, been refused injunction by the Trial Court and their Miscellaneous Civil Appeal has been dismissed by the learned District Judge-2, Jalgaon.

2 It is not in dispute that the Petitioners are before this Court at an interlocutory stage.

3 I have heard Shri Vijay Patil, learned Advocate appearing for the Petitioners and Shri P.R. Patil, learned Advocate appearing for the Respondent/ Jalgaon Municipal Corporation.

4 Considering the pendency of the suit before the Trial Court and the stage at which the Petitioners are before this Court, so also, having heard the learned Advocates at length and having considered the petition paper book, I propose to pass an order by which the interest of the Petitioners would be sufficiently safeguarded.

5 The Petitioners are vegetable vendors/ hawkers. They do not dispute that the areas in which they are presently hawking either through carts or by any other temporary modes, they have not been allotted the said areas as well as they have never followed the procedure to occupy the said places. It is conceded that they are merely occupying the said places and have no authorized permission to do so.

6 The issue is as regards the 2009 policy commonly known as “Rashtriya Feriwala Dhoran, 2009”. So also, the Petitioners are relying upon the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014.

7 As such, the effort of the Respondent Corporation is to ensure the rehabilitation of such street vendors and the grievance of the Petitioners is that they should be properly relocated and not just uprooted from their present location without alternative places being allotted to them for carrying out their business of selling vegetables.

8 Shri PR.Patil, learned Advocate for the Respondent/ Corporation, in order to cut short the issue, has placed on record the resolution passed by the “Shahar Feriwala Samiti” in meeting No.3 under the aegis of the Respondent Corporation. A copy of the said document (two pages) is supplied to Shri Vijay Patil, learned Advocate for the Petitioners.

9 Shri PR.Patil submits that it has been resolved in the said meeting dated 03.12.2014 that the vegetable vendors/ Feriwalas would be registered and they would, accordingly, be granted places where they would be entitled to resort to their business of selling vegetables or such similar business under the Respondent Corporation.

10 The said document placed on record is marked as Exhibit “X” for identification.

11 Shri P.R.Patil submits that the contents of Exhibit X be taken as a statement made by the Respondent Corporation before this Court.

12 This petition need not be kept pending since Shri P.R.Patil submits, on instructions, that there are near about 200 Gallas/Otas available in Golani Market, 100 Gallas/Otas near Balaji Market and 150 Gallas/ Otas in Bhaskar Market. He points out that the Petitioners are 276 in number which is confirmed by Shri Vijay Patil, learned Advocate for the Petitioners.

13 It is, therefore, submitted by Shri P.R.Patil that all these Petitioners can be accommodated in these markets and they need not fear being uprooted from their present places and kept in suspended animation. As the Respondent Corporation would register the Feriwalas/ Hawkers, the Petitioners would be allotted their Gallas/ Otas in phases, subject to the conditions as are being settled by the Respondent Corporation.

14 Shri Vijay Patil submits that the Petitioners' only apprehension and fear is that they would have no places to go and would not be able to earn their livelihood if they are removed from the present places and are

not allotted the Galas/Otas.

15 I find that this apprehension and fear is wholly misconceived in the light of the statement made by the Respondent Corporation and Exhibit X.

16 In the light of the above, without causing any interference in the impugned order of the Trial Court dated 17.01.2015 and the Appeal Court dated 19.03.2015, this petition is disposed of by recording the statement made by the Respondent Corporation in Exhibit X.

17 Shri P.R.Patil makes a statement that if the Petitioners start reporting to the Respondent Corporation as early as possible and even from tomorrow (08th July, 2015), they would promptly start allotting the Galas/ Otas to the Petitioners who can shift to their allotted places and begin their business. They shall not, therefore, return to their present places of hawking.

18 Shri Vijay Patil submits that since these Galas/Otas are being allotted practically on the principle of “First Come First Serve” basis, the Petitioners shall start approaching the Respondent Corporation from tomorrow. Those who may not opt for the said Galas/Otas, may suffer the

consequences.

19 Since the interest of the Petitioners has been secured in the light of the statement recorded as above and in the light of Exhibit X, this Writ Petition is disposed of with the observations as above.

(RAVINDRA V. GHUGE, J.)