

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1290 OF 2015

Shri. Hanumanta L. Pawshe and ors. .. Petitioners
vs.
Kalyan Dombivli Municipal
Corporation and anr. .. Respondents

Mr. B.K. Bali i/b Bali Associates for Petitioners.
Mr. Sandip D. Shinde for Respondent No.1
Mr. Vijay S. Gharat for Respondent No.2.

CORAM : M. S. SONAK, J.
DATE : 23 MARCH, 2015

P.C. :-

1] Rule. At the request of and with the consent of learned counsels for the respondents, Rule is made returnable forthwith.

2] This petition challenges the order dated 6 September 2014 made by the Joint Civil Judge, Junior Division, Kalyan, permitting the impleadment of respondent No.2 herein as defendant No.2 in Regular Civil Suit No.565 of 2001.

3] Respondent No.2 claims to have certain rights in respect of the suit property, wherein the plaintiffs have put-up a structure. Respondent No.1, which the Kalyan Dombivli Municipal Corporation allegedly threatened to take action to demolish the structure, which according to the Corporation is illegal one. In such a suit, the issue of any alleged rights of respondent No.2 cannot be and need not be gone into. On this short ground, the impugned order dated 6 September 2014, is liable to be set aside and is hereby set aside.

4] Upon query, learned counsel for respondent No.2 stated that the petitioners, in collusion with the Corporation has been delaying the suit for the last 14 years and that is the main reason why the respondent No.2 desire to intervene in the matter. The learned counsel for the Corporation states that he is willing to make a statement that they shall proceed against the structure in-question, in accordance with law after giving necessary notice to the petitioners-plaintiffs.

5] In fact, in view of the aforesaid statement, made by and on behalf of the learned counsel for respondent No.1 Corporation, the entire suit itself can be disposed of. It is quite unfortunate that a suit of this nature has taken almost 14 years and in that sense, there is some substance in the contention raised by the learned counsel for respondent No.2, the petitioners herein are interested in prolonging the matter.

6] This Court enquired with the learned counsel for the petitioners as to whether the entire suit could be disposed of by this Court itself, after recording statement made by and on behalf of the learned counsel for respondent No.1 Corporation. The learned counsel, however, stated that he would have to take instructions from the petitioners in the matter.

7] In view of the aforesaid, directions are issued to the learned Civil Judge, Junior Division, Kalyan to dispose of the Regular Civil Suit No.565 of 2001, positively within a period of two months from today. The learned Civil Judge, to take into consideration the

statement made by and on behalf of the learned counsel for respondent No.1 Corporation.

8] The parties to place on record before the learned Civil Judge an authenticated copy of this order on or before 30 March 2015, so that the suit itself is disposed of within a period of two months.

9] Rule is made absolute to the aforeseaid extent. There shall, however, be no order as to costs.

10] Parties to act upon an authenticated copy of this order.

(M. S. SONAK, J.)

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