

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.68 OF 2015
IN
PUBLIC INTEREST LITIGATION NO.207 OF 2010

The Municipal Commissioner,
Pimpri Chinchwad Municipal Corporation. .. Applicant
(Org.Respondent No.1)

In the matter of :

Mrs. Jayashree Suresh Dange. .. Petitioner

Vs

The Municipal Commissioner,
Pimpri Chinchwad Municipal Corporation,
and Others. .. Respondents

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Shri N.V. Walawalkar, Senior Advocate i/by Shri S.R.Ganbavale for the applicant.

Shri Bhushan Deshmukh i/by Shri Uday P. Warunjikar for the Petitioner.

Shri V.S.Gokhale, AGP for the State.

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CORAM : A.S. OKA & A.P.BHANGALE, JJ
DATED : 9TH APRIL 2015

PC.

. Not on board. Taken on board. Heard forthwith
considering the nature of the prayer.

2. Heard the learned senior counsel appearing for the Pimpri Chinchwad Municipal Corporation. Under the order of this Court dated 6th February 2015, the Pimpri Chinchwad Municipal Corporation was

directed to conduct a special drive in April 2015 for demolition of the illegal structures. There are orders repeatedly passed by this Court directing the Municipal Corporation to demolish more than 66,000 illegal structures which were noticed way back in the year 2012. The affidavit of Municipal Commissioner of the Applicant Corporation filed on 4th January 2014 records that there are 66,324 illegal structures. We must note that this figure is based on the data of Property Tax Department. Therefore, actual illegal constructions must be much more. The learned senior counsel appearing for the Applicant states that this Application is moved by the Pimpri Chinchwad Municipal Corporation for extension of time of four weeks to implement the directions issued by this Court in its order dated 6th February 2015 only in view of the direction issued by the State Government on 4th April 2015. A copy of the communication dated 4th April 2015 issued by the Urban Development Department is annexed to the Civil Application.

3. We are shocked to read the communication dated 4th April 2015. This Court has repeatedly noted that more than 66,000 illegal structures have been made in the limits of the Pimpri Chinchwad Municipal Corporation. This Court repeatedly issued directions to the Pimpri Chinchwad Municipal Corporation to take an action of demolition. The direction of this Court under the order dated 6th February 2015 was to the Pimpri Chinchwad Municipal Corporation to

make a special drive of demolition of illegal structures in April 2015. Now the State Government has gone to the extent of directing the Municipal Corporation to seek extension of time on the ground that the State Government desires to adopt the policy of regularizing large number of illegal structures.

4. It is shocking to note that the State Government wants to protect such a large number of illegal structures. This Court has already deprecated the attempt made by the Authorities to regularize such large number of illegal structures. Paragraph 9 of the order dated 4th October 2013 in this PIL reads thus:

“9. The material which has been placed on the record leaves no manner of doubt that there is a complete breakdown of governance in the enforcement of urban planning legislation within the jurisdiction of PCMC. The PCMC is a planning authority within the meaning of the Maharashtra Regional Town Planning Act, 1966 and is duty bound to enforce those provisions. As many as 66,324 structures are found to be unauthorized. Even after issuing notices of demolition, the PCMC has taken action only against 225 structures. The illegalities are compounded by a proposal for regularization en masse. This is a virtual negation of the rule of law. Learned counsel for PCMC states that PCMC lacks adequate infrastructure and is dependent on the Police authorities to support its enforcement measures. What is disturbing is the complete absence of administrative will on the part of the authorities of the State including the planning authority to take cognizance of the serious dimensions of the unauthorized structures within the limits of PCMC. PCMC has compounded the illegalities by now proposing to regularize initially all structures which

had come up prior to 31 March 2011 and subsequently all structures which have come up prior to 31 March 2012. The consequence of these proposals does not require any stretch of imagination to appreciate. What the PCMC has proposed to do in fact acts as an incentive for those who carry out unauthorized constructions, since the violaters of the law can be sanguine in that belief that their structures will not be demolished and in fact would be tolerated at a future date. We emphatically disapprove of the conduct and the decisions of the PCMC and hold the Commissioner of PCMC personally responsible for taking immediate steps and stringent action against unauthorized constructions including those which form the subject matter of the PIL before this Court”.

(Underline added)

5. These observations bind even the State Government. Such large number of illegal structures is a burden on civic amenities in any City. Allowing such large number of illegal structures to stand amounts to depriving civic amenities to the law abiding citizens. The Apex Court in Paragraph 1 of its decision in the case of Esha Ekta Apartments Co-operative Housing Society Ltd. v. Municipal Corporation of Mumbai¹ observed thus:

“In last five decades, the provisions contained in various municipal laws for planned development of the areas to which such laws are applicable have been violated with impunity in all the cities, big or small, and those entrusted with the task of ensuring implementation of the master plan, etc., have miserably failed to perform their duties. It is highly regrettable that this is so despite the fact that this Court has, keeping in view the imperatives of preserving the ecology and environment of the area

¹ 2013(3) Bom.C.R.49

and protecting the rights of the citizens, repeatedly cautioned the concerned authorities against arbitrary regularization of illegal constructions by way of compounding and otherwise”.

6. If the State Government wants the Municipal Corporation not to take action of demolition, the State Government should have been bold enough to either make an Application for modification of the earlier order of this Court or could have come before this Court with a prayer for preventing the Municipal Corporation from taking action of demolition of more than 66,000/- illegal structures. The State Government appears to have indirectly moved this Application through the Municipal Corporation by directing the Municipal Corporation to make an Application before the Court seeking extension of time.

7. We must note here that with some vehemence, the learned senior counsel appearing for the Applicant submitted that the Pimpri Chinchwad Municipal Corporation had no option but to come before this Court in view of the clear direction issued by the State Government and that is the reason why the Pimpri Chinchwad Municipal Corporation has applied for extension of time to implement the orders passed by this Court earlier.

8. We have perused the communication dated 4th April 2015. The said communication has not been issued in exercise of any specific

statutory powers. We fail to understand as to how any statutory power can be exercised by the State Government for delaying the action of demolition of more than 66,000 illegal structures in the City of Pimpri Chinchwad. The present Application has been moved not because of the Pimpri Chinchwad Municipal Corporation is not capable of implementing the orders of this Court, but there is a direction of the State Government to the Pimpri Chinchwad Municipal Corporation to apply for extension of time to this Court. We deprecate this action on the part of the State Government. No case is made out for grant of extension of time. The Application is rejected.

(A.PBHANGALE, J)

(A.S. OKA, J)