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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.63 OF 2006

Yogesh Madhukar Ghode & Ors.	...Petitioners
vs.	
Nasik Municipal Corporation, Nasik and others	...Respondents

None for the Petitioners

Mr.V.A.Gangal for the respondent Nos.1 and 2

Mr.Joel Carlos i/b M/s.YKS Legal for respondent No.3

Mr.V.S.Gokhale, AGP for respondent Nos.4 to 7.

CORAM : A.S.OKA, &
V.L.ACHLIYA, JJ.

DATE : SEPTEMBER 30, 2015

ORAL JUDGMENT: (PER A.S.OKA,J.)

1 None appears for the petitioners. We have heard the learned counsel appearing for the respondent Nos.1 and 2, the learned counsel for the respondent No.3 and the learned AGP for the respondent Nos.4 to 7. As far as the prayer clauses (a) and (b) as regards auditorium constructed on Survey No.302 are concerned, the order of this Court dated 24th November 2014 records that the possession of Samaj Mandir auditorium constructed on the land bearing Survey No.302 has been already handed over to the Nashik Municipal Corporation.

2 As regards enquiry into the affairs of the respondent No.3-trust, we find that this Court ordered an enquiry by the Joint Charity Commissioner, Nashik who held the Office Bearers and

Executive Committee members of the respondent No.3-trust responsible for the loss caused to the trust to the extent of a sum of Rs.1,49,310/-. The report dated 12th March 2015 submitted by the learned Joint Charity Commissioner records that a sum of Rs.1,50,000/- has been paid to the respondent No.3-trust. This fact has been noted in the order of this Court dated 15th April 2015.

3 The grievance made about the Samaj Mandir constructed on Survey No.302 was essentially founded on apprehension that by allowing the respondent No.3 to use the said Samaj Mandir, the reservation in the sanctioned development plan will be completely frustrated.

4 Now that the Nashik Municipal Corporation is in possession of the said Samaj Mandir, the said apprehension would not survive.

5 There is an affidavit filed by Shri Sanjeev Yashwant Pawar, the Executive Engineer of the Town Planning Department of Nashik Municipal Corporation. It is pointed out that the land bearing Survey No.302 is partly covered by a residential zone and the remaining part is covered by Reservation 447 for garden. In the paragraph 5, break up has been given by the Executive Engineer about the manner in which the land reserved for garden has been utilized. Area occupied by the Samaj Mandir is only 61.27 sq meters. Apart from Samaj Mandir, there is one shed and one residential room for Gardener. It is

pointed out that the constructed area is only 4.91% of the total area reserved for garden. It is stated that by spending a substantial amount, a garden has been developed. Though the affidavit records that there was a resolution passed by the General Body for granting the said Samaj Mandir to the respondent No.3, now the Municipal Corporation is in possession of the said auditorium.

6 In the affidavit filed by Ms Pratibha Umesh Bhadane, the Assistant Director of Town Planning, Nashik Branch, Nashik it is pointed out that the building permission to construct the Samaj Mandir is granted under Regulation No.6.6.2 (v) of the relevant Development Control Regulation.

7 As action has been taken against the Trustees and the Office Bearers of the respondent No.3, there is no reason to initiate criminal proceedings. Moreover, there is no reason to pass an order of demolition of the said Samaj Mandir as the same occupies a negligible part of the area reserved for garden. Substantial part of the area reserved for garden is already developed. Therefore, prayer clauses (e) and (f) have been already worked out.

8 Hence, it is not necessary to issue any further directions in the PIL. Accordingly, the PIL is disposed of. Rule is discharged. No order as to costs.

(V.L.ACHLIYA,J.)

(A.S.OKA,J.)

CERTIFICATE

Certified to be true and correct copy of original
signed Judgment/Order.