

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION STAMP NO.19777 OF 2015

Smt. Tarabai Chabhu Gavali : Petitioner
versus
The Commissioner,
Nashik Corporation Municipal Council and anr. : Respondents.

ALONG WITH
WRIT PETITION STAMP NO.19782 OF 2015

SaiyyadKadir Saiyyad Vazir : Petitioner
versus
The Commissioner,
Nashik Corporation Municipal Council and anr. : Respondents.

ALONG WITH
WRIT PETITION STAMP NO.19786 OF 2015

Ramdas Vitthal Ahire : Petitioner
versus
The Commissioner,
Nashik Corporation Municipal Council and anr. : Respondents.

ALONG WITH
WRIT PETITION STAMP NO.19787 OF 2015

Smt. Muktabai Madhavrao Avare : Petitioner
versus
The Commissioner,
Nashik Corporation Municipal Council and anr. : Respondents.

ALONG WITH
WRIT PETITION STAMP NO.19813 OF 2015

Ravindra Vitthal Polke : Petitioner
versus
The Commissioner,
Nashik Corporation Municipal Council and anr. : Respondents.

**ALONG WITH
WRIT PETITION STAMP NO.19815 OF 2015**

Suresh Ramchandra Sonavane : Petitioner
versus
**The Commissioner,
Nashik Corporation Municipal Council and anr.** : Respondents.

**ALONG WITH
WRIT PETITION STAMP NO.19817 OF 2015**

Ashok Laxmandas Aamesar : Petitioner
versus
**The Commissioner,
Nashik Corporation Municipal Council and anr.** : Respondents.

**Mr. Pravartak Pathak for the Petitioners in all the WPs
Shri Ram Apte, Senior Advocate a/w Mr. Vaibhav P Patankar for the
Respondent No.1 in all the WPs.
Mrs. V S Nimbalkar, AGP for the Respondent No.2 in all the Wps.**

**CORAM : R. M. SAVANT, J.
DATE : 27th July 2015**

P.C.

1 The above Petitions take exception to the common order dated 29/06/2015 passed by the learned Ad-hoc District Judge-1, Nashik by which order the Appeals filed by each of the Petitioners came to be dismissed and resultantly the notice dated 21/02/2015 issued by the Respondent No.1 Corporation under Section 81B of the Maharashtra Municipal Corporation Act came to be confirmed.

2 The Petitioners are the occupants of the premises in question

which have been let out to them by the Respondent No.1 on license basis on payment of monthly charge which, in so far the Petitioner in the first Petition is concerned, is Rs.620/- per month. The Petitioners have been issued various notices which have been referred to in the said notice dated 21/2/2015 in the subject column. The Petitioner were issued the said notice dated 21/2/2015 on the ground that in view of the Sinhasth Kumbhmela which is to take place in the year 2015-2016, there is going to be tremendous increase in the traffic in the vicinity of the Nashik Station as devotees and tourists from all over the country are likely to visit Nashik City, it is to widen the road near Nashik Station that the said notice dated 21/2/2015 calling upon the Petitioners to vacate the premises in question and pay the outstanding dues came to be issued. At this stage it is required to be noted that the Petitioners had filed Regular Civil suit No.502 of 2002 wherein they had sought the injunction against the Respondent No.1 from implementing one such notice which was issued to them at an earlier point of time. It appears that in the said suit, an injunction was operating in favour of the Petitioners . It is further required to be noted that the said suit came to be dismissed for default in the year 2006 and the application for restoration of the said suit was also rejected by the concerned Court. The said fact also finds place in the said notice dated 21/2/2015.

3 Against the said notice dated 21/2/2015 the Petitioners filed

Appeals before the designated Court i.e. the District Court Nashik being Civil Appeals Nos. 75/2015 to 83/2015. In the said Appeals the Petitioners filed an application which was numbered as Exhibit 5 for injunction. The said applications came to be moved before the District Court. The learned Ad-hoc District Judge, Nashik by the order dated 7/3/2015 issued notice to the Respondent No.1 Corporation granting ad-interim relief in so far as the said Application (Exhibit 5) is concerned. The Appeals were thereafter heard by the learned Ad-hoc District Judge-1 Nashik and by the common impugned order dated 29/6/2015 has dismissed the said Appeals.

4 The gist of the reasoning of the Appellate Court is that the Petitioners do not have any vestige of authority to occupy the premises in question as their licenses have come to an end long back. The Appellate Authority has also observed that the Petitioners are in arrears of rent. The Appellate Court has given weightage to the fact that it is in the public interest that on account of the ensuing Sinhasth Kumbhmela that the eviction of the Petitioners is sought so as to ameliorate the infrastructure around Nashik Station which includes widening of the road. The Appellate Court has therefore deemed it appropriate to dismiss the Appeals.

5 The learned counsel for the Petitioners Shri Pravartak Pathak would contend that the procedure envisaged in Section 81(B) of the

Maharashtra Municipal Corporation Act provides for a show cause notice and the noticee being heard and same has not been followed in the instant case, the order passed by the Appellate Authority is vitiated on the said ground.

6 In so far as the said aspect is concerned, as indicated herein above, the Petitioners had filed the said suit which was pending from the year 2006 when it came to be dismissed for default and the application for restoration also came to be rejected. Hence the factum of the Petitioners' filing a suit and the same being dismissed, albeit for default is a factor which is required to be taken into consideration. The second factor which is of relevance is that it is in public interest that the eviction of the Petitioners is sought in view of the ensuing Sinhasth Kumbhmela which is to take place in the year 2015-2016. If considered from the said two angles, the order passed by the Appellate Court dismissing the Appeals cannot be found fault with. No case for interference in the writ jurisdiction of this Court is made out. The above Writ Petitions are accordingly dismissed.

7 At this stage, the learned counsel appearing on behalf of the Petitioners Shri Pravartak Pathak seeks time of three weeks to take appropriate steps. In the facts and circumstances of the present case, the Petitioners are granted time up to 3rd August 2015 to vacate the premises in question. If the Petitioners do not vacate the premises in question by the said date, then the

Respondent No.1 Corporation is free to proceed against the Petitioners in accordance with law.

[R.M.SAVANT, J]