

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDCITION

WRIT PETITION (L) NO.825 OF 2015

Nadeem Abdul Latif Qureshi. ...Petitioner.

vs.

The State of Maharashtra and ors. ...Respondents.

Ms.Ratna Jaiswal for the Petitioner.

Mr. Vinod Mahadik for the Respondent BMC.

CORAM : A.S.OKA AND
A.P. BHANGALE, JJ.

DATE : 07th April, 2015

PC:

Heard learned counsel appearing for the petitioner and the learned counsel appearing for the respondents.

2) Time was granted on 25 March 2015 to the learned Counsel appearing for the respondents to take instructions. The learned counsel for the respondents states that he has not received instructions and therefore, he may be granted time. Considering the urgency involved, time cannot be granted.

3) On application made by the petitioner on 18 December 2014 a notice was issued by the 1st respondent-Municipal Corporation of Greater Mumbai under Clause(a) of sub section(1) of Section-381 of the Mumbai Municipal Corporation Act,1888 requiring the petitioner to

carry out the repairs to the drainage system and clean the pipes. The grievance made by the petitioner to the Health Officer respondent No.3 by a letter dated 27 November 2014 was that the dirty water is flowing all over the area and entering into her residential premises.

4) On 9 January 2015, the petitioner addressed a letter to Senior Inspector of Police of Amboli Police Station requesting the police to grant protection for the purpose of implementing the notice dated 18 December 2014. On 14 January 2015, the petitioner communicated to the Assistant Commissioner of the 1st respondent that he has sought police protection. The grievance in the petition is that as the police protection was not granted to the petitioner, he could not act upon the said notice and carry out the work.

5) By Advocate's letter dated 27 February 2015, the petitioner requested the 1st respondent to extend the period of notice dated 18 December 2014.

6) After having heard the learned counsel appearing for the petitioner and the learned counsel for the respondents, we find that there is no impediment in the way of extending the period provided in the notice dated 18 December 2015. The period will have to be extended unless the notice dated 18 December 2014 has been challenged by any third party. As of today there is prohibitory order passed by any competent Court preventing the petitioner from acting upon the said notice.

7) Necessary police protection will have to be granted to the petitioner for carrying out the work in terms of the notice dated 18 December, 2014. Hence, we dispose of the petition by passing the following order:-

a) We direct the 2nd respondent to issue a formal communication to the petitioner extending the period provided in notice dated 18 December 2015 (Exhibit-D to the petition) by further period of 30 days from the date of issue of the said communication;

b) On application being made by the petitioner to the Senior Inspector of Police of Amboli Police Station, Jogeshwari (W), Mumbai necessary and adequate police protection shall be granted to the petitioner only for the purpose of implementing the requisitions set out in the notice dated 18 December 2014;

c) The 2nd respondent as well as Senior Inspector of Police of Amboli Police Station to act on an authenticated copy of this order which may be produced by the petitioner.

8) We make it clear that we have made no adjudication as regards the right to property claimed by the petitioner

9) The petition is disposed of in the above terms.

(A.P. BHANGALE, J.)

(A.S. OKA, J.)