

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

WRIT PETITION NO.1710 OF 2013

Smt.Savita Pawar & anr.

... Petitioners

Vs.

Municipal Corporation of Greater Mumbai & Ors. ... Respondents

Mr.Nitesh Acharya a/w Yousuf Khan i/b Anjali Awasthi for the Petitioners
Ms.Vandana Mahadik for Respondents

**CORAM: SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG, JJ.**

DATE: 10th FEBRUARY, 2015

P.C.:

By this petition, the petitioner seeks the appointment of the Municipal Commissioner to conduct a site visit of the Municipal Medical Health Centre plot situated in Taluka Kurla and file a status report within a reasonable time. The petitioner also seeks vacation of the ad-interim stay granted by the City Civil Court on 5.4.2013 in Civil Suit No.1446 of 2013. A direction is also sought against the Corporation to commence the construction work of the medical health centre on the plot in question.

According to the petitioner, though the plot is ear marked for the municipal health centre, the respondent No.4 has illegally encroached

upon the same and is desirous of making illegal construction thereon. At the time of filing of the petition, it was stated that in the suit filed by the respondent No.4, the City Civil Court had granted an order of injunction on 5.4.2013 and the same needs to be vacated.

The Sub-Engineer (Maintainance) has filed an affidavit in reply on behalf of the Corporation. It is stated in the affidavit in reply that the plot in question is protected by the Corporation and there is no encroachment on the said plot. It is stated that there is no question of removal of encroachment as the plot is vacant. It is stated by Ms.Mahadik, the learned Counsel for the Corporation, on instructions from the Officer, who is present in Court today, that the Corporation would make an endeavour to construct the municipal medical health centre on the said plot in the near future. It is stated that some permissions are required to be obtained before making the construction and the Corporation would take steps to seek the permissions as and when the occasion arises.

The reliefs sought by the petitioner in the instant petition cannot be granted. The prayer for setting aside the order of stay in the civil Court cannot be granted in a writ petition filed under Article 226 of the Constitution of India. In any case, the stay is not operating as on date.

Since the Corporation would take steps to make the construction on the plot, no formal directions would be necessary.

In the circumstances mentioned hereinabove, we dispose of the petition with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)