

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

WRIT PETITION (L) NO.1754 OF 2015

Shamrao Ramchandra Doiphode **Petitioner**

V/s

**Municipal Corporation
of Greater Mumbai** **Respondent**

Mr. C.V. Murti a/w Mr. Mohan Rao i/b Mr. Pradeep L. Dubey for
Petitioner.

Mr. A.Y. Sakhare, Senior Counsel a/w Ms. K.H. Mastakar for Respondent
Corporation.

CORAM : A.A. SAYED, J.
DATED : 7 AUGUST 2015

P.C.

1 The Petition impugns an order dated 6 June 2015 whereby the
Petitioner is directed to remove the stall and vacate the place occupied
by him pursuant to a Report that the water sample collected from his
establishment contains e-coli bacteria which is hazardous from health
point of view. The said order was passed after show cause notice dated
2 June 2015 was issued to the Petitioner.

2 On 18 June 2015 this Court has passed the following order.

*“ The petitioner has been granted Squatter Pitch
License for the purpose of carrying on business as cobbler.
The Show Cause Notice dated 02.06.2015 alleges that there
was “E Coli” bacteria found in the water samples taken by the*

Corporation from the stall of the petitioner. The Show Cause Notice was replied to by the petitioner stating that the petitioner is not using any water for the purposes of his customers who come to have their foot wear repaired or mended and the water which is kept is for his personal use which he gets from his residence in one or two bottles. It is stated by the petitioner that some other person is carrying on business of selling Puri Bhaji near the petitioner's stall. Neither the Show Cause Notice nor the order alleges change of user by the petitioner and the petitioner has been directed by the impugned order to remove his stall and vacate the place occupied by him immediately.

2. *Learned counsel for the petitioner states that the petitioner is willing to file an undertaking that he is doing only the work of cobbler as per the license and he is not selling nor will he sell any Puri Bhaji as mentioned in the inspection report. Let such undertaking be filed within one week from today.*

3. *Till the next date, there shall be an ad-interim order in terms of prayer clause (E) which reads as follows :-*

“(e) Pending the hearing and final disposal of the petition, this Hon'ble Court be pleased to restrain the Respondents, its officers, agents, person or persons claiming through or under by them from in any manner interfering with the business of the Petitioner being carried out under the License No.795302699 (Old License No.807) from the Petition Stall being the Wooden Stall admeasuring 1.524 meters X 0.941 meters situated at Behind GPO Gate, St. George Street Footpath, Fort, Mumbai 400 001 and/or enforcing

the impugned notice dated 06.06.2015 bearing No.ACA/919/Lic. in any manner and against the Petitioner and the petition stall”

4. *Stand over to 16.07.2015.”*

3 Though the Petitioner had filed an Undertaking dated 22 June 2015 in pursuance to the aforesaid order, there were some reservations on behalf of the Respondent Corporation as according to the learned Senior Counsel for the Respondent Corporation, the Undertaking was not in terms of the said order dated 18 June 2015. The Petitioner has now filed a fresh Undertaking today. The said Undertaking is taken on record and marked 'X' for identification. The Undertaking is accepted.

4 Having regard to the facts and circumstances of the case and in view of the Undertaking filed by the Petitioner, in my opinion, no purpose will be served by keeping the Petition pending. In the circumstances, the Petition is disposed of. It would be open for the Respondent Corporation to take action in accordance with law if it is interalia found that the Petitioner is carrying on business other than for which the license has been issued to him.

(A.A. SAYED, J.)

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