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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO.207 OF 2015
IN
PUBLIC INTEREST LITIGATION NO.45 OF 2012

Gopal Chinnyya Shetty ..Applicant.

In the matter of

Ali Asgar Mohammed Tahsildar ..Petitioner.

V/s.

State of Maharashtra and Ors. ..Respondents.

Mr.Siddharth Sharma for the applicant.

Mr.Akhilesh Sharma i/b. Mr.Ashok M.Sanghvi for the petitioner in PIL/45/12.

Mr.J.S.Saluja, AGP for respondent-State.

Ms.Trupiti Puranik for respondent-BMC.

**CORAM : A.S.OKA AND
V.L.ACHLIYA, JJ.**

DATED : 6TH OCTOBER, 2015

P.C. :-

1. Heard the learned counsel for the applicant. The applicant is a Member of Parliament.

2. This PIL has been filed for bringing to the notice of the Court the fact that certain schools have come up by encroaching upon the Government land and by carrying out illegal constructions thereon. Orders of this Court, in particular order dated 5th January,

2015 records that the Deputy Collector (Encroachment) found that six schools have been illegally and authorisedly constructed by encroaching upon Government lands. Thereafter, proceedings under Section 50(3) of the Maharashtra Land Revenue Code, 1966 were initiated and the six schools appearing before this Court sought liberty to apply for regularization. Some of the schools have surrendered the open portions of the Government lands which were in their possession. In case of some schools, the Municipal Corporation issued notices under Section 351 of the Mumbai Municipal Corporation Act, 1888. The proceedings filed by the concerned schools have been disposed of permitting them to apply for regularization and their structures have been protected for a limited period to enable them to apply for regularization.

3. We have perused the affidavit in support of the Chamber Summons filed by the applicant. In the affidavit in support, a contention has been raised that if the schools are demolished, 35,000 students will suffer. In paragraph 9, the applicant has stated that he shall place before the Government the possibility of regularization of the structures without loss of revenue to the Government. There is an additional affidavit filed by the applicant. In paragraph 5, he has stated that he proposes to assist the schools in the process of regularization as per the order of this Court. He has stated that annual rent should be recovered from

the schools by the Government or Semi-government authority till the plots / structures are regularized. Thus, it appears from the affidavit filed that the Hon'ble Member of Parliament wants to ensure that illegal structures of the school which have been erected by encroaching upon the Government lands should be regularized.

4. Considering the stand taken in the affidavit in support and the additional affidavit, we find that the applicant is neither a necessary nor a proper party to this petition. If he wants to help the schools and the students, he can always do so in his capacity as the Member of Parliament. As stated earlier, the school authorities have made a statement before this Court that they want to apply for regularization and accordingly that structures have been protected for a limited period. The prayer in the petition is for action against the illegal constructions. If the applicant wants to protect the illegal structures, he is free to do so. However, his intervention in this petition is not called for as the applicant is neither a necessary party nor a proper party. The Chamber Summons is rejected.

(V.L.ACHLIYA, J.)

(A.S.OKA. J.)

C E R T I F I C A T E

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