

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

WRIT PETITION NO.1185 OF 2015

[Latabai Keshav Maundekar and others .vs. State of Maharashtra and others]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. S.N. Abhyankar with Mr. S.S. Dhengale, counsel for the petitioners,
Mr. S.R. Deshpande, counsel for the intervenors-petitioners,
Mrs. Bharti Dangre, Government Pleader for the respondent nos.1 to 3,
Mr. H.R. Gadhia, counsel for the intervenors,
Mr. T.S. Kene, counsel h/f Mr. A.S. Kilor, counsel for the intervenors.

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CORAM : SMT. VASANTI A. NAIK AND
A.I.S. CHEEMA, JJ.

DATED : SEPTEMBER 10, 2015.

Heard.

By this petition, the petitioners seek a direction against the respondents-Commissioner of Police, Nagpur and the Police Station Officer, Police Station, Lakadganj, Nagpur not to enter upon the premises of the petitioners and remove them from the same. A direction is sought against the respondents not to restrict the petitioners-owners of the properties from leasing their properties to the tenants. A direction is also sought against the respondents, restraining them from treating the petitioners inhumanly. Certain other ancillary directions are also sought against the respondents.

The petitioners are the residents of Ganga-Jamuna 'red-light' area in Itwari, Nagpur. It is the case of the petitioners that the petitioners are the residents of the said area for the past several years. According to the petitioners, out of the said 177 petitioners, around 47 petitioners are the owners of the properties and houses in the said locality and the rest of the petitioners are the tenants. It is averred in the petition that on 29.1.2015, the police officials, around 20 to 30, in number came to the aforesaid locality and started mercilessly beating the petitioners and their family members. It is

stated that on 16.2.2015, five-six police officials came to the house of the petitioner Minu Rajesh Kalkhor and asked her to remove herself from the house. It is stated that the petitioners have made complaints against the illegal action of the police authorities, but the police officials have not acted upon the complaints.

When this matter came up for hearing on 30.4.2015, this court observed that though it is true that the law abiding citizens should not be harassed, it is equally true that, if any, illegal or wrongful activity is conducted in an area, people residing in the said area should assist the police authorities to curb the activity. The aforesaid observation was made after it was conveyed on behalf of the respondents that the area in which the petitioners reside is a 'red-light' area and some of the women in the said area are sex workers and a few petitioners are also involved in activities, that are prohibited under the Immoral Traffic (Prevention) Act, 1956. The counsel for the petitioners had stated on 30.4.2015 that necessary documents were submitted to the police authorities to prove their ownership or tenancy, as the case may be, the authorities were permitted to verify the same. This court then directed the petitioners to tender the documents to the police authorities with details about the family members residing in the house, their age, occupation etc. It was observed in the said order that if the police authorities find that the documents or the information is insufficient, they may call upon the concerned petitioners to supply the data or information necessary for inquiry. This court directed the petitioners to cooperate with the Commissioner of Police and the Police Station Officer of the concerned area.

The respondent no.3 had filed an affidavit-in-reply on 22.4.2015. It was stated therein that the area in which the petitioners reside i.e. the Ganga Jamuna area falls within the limits of Lakadganj Police Station and is known for prostitution business in the city of Nagpur. It was stated in the affidavit-in-reply that offences are registered against the petitioner nos.1, 9, 16, 46, 49, 61, 94, 97, 102, 112, 113 and 123 under the provisions of the Immoral Traffic (Prevention) Act, 1956. A chart is annexed to the said affidavit-in-reply mentioning the names of the 12 petitioners and the offences that

are registered against them. It is stated on the basis of the chart appended to the affidavit-in-reply that the concerned petitioners are engaged/involved in prostitution. It is stated that when the respondents tried to curb the activities of the concerned petitioners, the petitioners have filed the instant petition with the prayer that the respondents should be prevented from taking action against them. The incident in respect of Minu Kalkhor is denied in the affidavit-in-reply.

Yet another affidavit-in-reply is filed on behalf of the respondent no.3 on 27.8.2015, in pursuance of our order dated 30.4.2015. It is stated in the affidavit-in-reply that only 137 petitioners have submitted the information as per the directions, dated 30.4.2015. It is stated that 40 petitioners have not submitted any information or documents. It is stated that of the 137 petitioners, 32 petitioners are the property owners and 105 petitioners are the tenants and relatives. It is reiterated in the second affidavit-in-reply that some of the petitioners are indulging in prostitution and it would be necessary for the concerned respondents to take action against the erring petitioners under the provisions of the Act of 1956. It is stated that against some of the petitioners offences are registered under the provisions of the Indian Penal Code, Immoral Traffic (Prevention) Act and Protection of Children from Sexual Offences Act, 2013. It is also stated in the affidavit-in-reply that some of the petitioners are absconding. It is stated that the respondents-authorities have rescued two minor girls, aged about 14 and 16 from the custody of the petitioner no.7, who is involved in prostitution and has forced the minor girls to do the same business for her profit. It is stated in the affidavit-in-reply that the prayers made in the petition are misconceived, as the respondents-authorities have no intention whatsoever to dispossess the petitioners from their houses or evict the tenants, if the tenancy is lawful and if the petitioners are not indulging in illegal activities. It is stated that appropriate action would be taken against the erring petitioners only in accordance with the procedure prescribed by law. It is stated that the respondents are enforcing the law and taking action only against the offenders. It is stated that the respondents undertake not to evict the

petitioners without following the due procedure prescribed by law.

On a reading of the undertaking in the affidavit-in-reply, we find that the grievance of the petitioners should stand redressed. We find that as many as 177 petitioners from the locality have filed this petition seeking general directions against the respondents-police authorities. In our considered view, such general directions cannot be issued. The police authorities are required to perform their duties and while performing their duties, action could be initiated against the petitioners, who are indulging and involved in illegal activities that are prohibited under the Act of 1956 or the Protection of Children from Sexual Offences Act. A blanket direction cannot be issued against the respondents-authorities not to take action against any of the petitioners. Though it is true that the police authorities are not expected to harass the law abiding citizens, it is also true they are expected to take appropriate action against the offenders. The affidavit-in-reply of the respondent no.3 i.e. Police Station Officer, Police Station, Lakadganj, dated 27.8.2015 bears the undertaking. It is stated in the affidavit-in-reply that the respondents have no intention to dispossess the petitioners from their houses or evict the tenants if the tenancy is lawful. The respondent no.3 undertake that they would not evict the petitioners without following the due procedure prescribed by law. The undertaking in paragraph 7 of the affidavit-in-reply, dated 27.8.2015, would be binding on the respondents. The respondents would not be entitled to take action against the petitioners, except by following the due process of law.

Since it would not be proper for this court to grant blanket direction, as sought by the petitioners in the instant petition, by accepting the undertaking of the respondent no.3 in the affidavit-in-reply, dated 27.8.2015, we dispose of the writ petition, with no order as to costs.

JUDGE

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