

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD

WRIT PETITION NO. 3406 OF 2016

Parbhani City Municipal Corporation
Parbhani, Through its Deputy Commissioner
Ranjeet Annasaheb Patil,
Age: 37 years, Occu. Service,
R/o. Parbhani ... Petitioner

VERSUS

Sunil Gulabrao Deokar
Age: 35 years, Occu. Business,
R/o. Near Civil Hospital,
Parbhani ... Respondent

.....
Mr. Satyajit S. Bora, Advocate for the petitioner
Mr. Arvind S. Deshmukh, Advocate for the respondent
.....

CORAM : SUNIL P. DESHMUKH, J.

DATE : 29th JUNE, 2016

ORAL JUDGMENT :

1. Rule. Rule made returnable forthwith and heard with consent of learned advocates for the parties, finally.
2. The petitioner-corporation is before this court against an interlocutory order dated 16th January, 2016 on application

Exhibit-5 in Municipal Appeal No.4 of 2015 passed by the Ad-hoc District Judge-1 Parbhani, whereunder, the operation of order dated 11th December, 2015 passed by Commissioner, Municipal Corporation, Parbhani, is stayed till final decision of appeal. Effectively, the order transcends to de-sealing of the premises which were sealed way back in 2013.

3. It is the contention of the respondent that by virtue of various agreements executed from time to time and particularly one which had been entered into in 2009, property bearing shops No. 171 and 172 situated at site No.100 in the Parbhani city has been leased out to respondent. In respect of the premises let out to respondent various permissions for running business over the same have been acquired.

4. According to Mr. Deshmukh, learned counsel for the respondent, the corporation refers to notice dated 5th October, 2013 and *panchanama* dated 9th October, 2013, under which the hotel premises has been sealed. This, according to learned counsel, is in breach of the provisions, particularly Section 81 A and B of the Bombay Provincial Municipal Corporation Act, 1949 and since the provisions have not been

followed and the action affects the respondent retrospectively, the impugned order, which has been passed without having regard to the provisions of law and is arbitrary.

5. Whereas, learned advocate Mr. Bora for the petitioner submits that instead of going into various aspects involved in the matter, it would be pertinent to note that premises have been sealed since 2013 and under an interim application in appeal which is pending for final disposal, issue would stand decided. He submits that the appeal is open for contest and there are various grounds upon which the action can be justified. He therefore submits that instead of rendering the judgment on merits, the situation can be taken care of at this stage by issuing directions to the appellate authority to decide Municipal Appeal itself expeditiously.

6. The request on behalf of the petitioner appears to be reasonable.

7. As such, the writ petition is disposed of with directions to appellate authority to decide the pending Municipal Appeal No. 4 of 2015 as early as possible, preferably within a period of fortnight from the date of receipt of writ of this order.

8. In the meanwhile, the effect and operation of the impugned order in the present petition shall be kept in abeyance and its efficacy would depend on decision in appeal.

9. Rule stands discharged.

(SUNIL P. DESHMUKH, J.)

sms