



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

PUBLIC INTEREST LITIGATION NO. 109 OF 2015
WITH WRIT PETITION NO. 1651 OF 2004
IN WP/421/1986 WITH
PUBLIC INTEREST LITIGATION NO. 38 OF 2015
WITH CIVIL APPLICATION NO. 2631 OF 2024
IN PIL/109/2015 WITH
WRIT PETITION NO. 2556 OF 2013 WITH
WRIT PETITION NO. 3865 OF 2008 WITH
CRIMINAL SUO-MOTU WRIT PETITION NO. 2 OF 2001
WITH CIVIL APPLICATION NO. 8414 OF 2023
IN PIL/109/2015 WITH
CIVIL APPLICATION NO. 9934 OF 2023
IN PIL/109/2015 WITH
CIVIL APPLICATION NO. 13287 OF 2023
IN CA/8414/2023

Registrar (Judicial) High Court Of Bombay
Bench At Aurangabad

VERSUS

The State Of Maharashtra And Others

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Mr. A. B. Kadethankar a/w Mr. Abhay Ostwal, Advocates
for the Petitioner/Amicus Curiae
Mr. P. K. Lakhotiya, AGP for Respondent No. 1/State
Mr. A. S. Bajaj, Advocate for Respondent Nos. 3 and 4
Mr. S. B. Deshpande, Senior Advocate I/by Ms. Anjali
Dube (Bajpai), Advocate for Respondent No. 11
Mr. V. C. Patil h/f Mr. U. B. Bondar, Ashutosh
Kulkarni, Advocates for Intervenors

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CORAM : RAVINDRA V. GHUGE &
R. M. JOSHI, JJ
DATE : MARCH 27, 2024

PER COURT :

1. The learned AGP points out that the minutes of
the High Court Constituted Committee have been placed

on record, from page numbers 1870 to 1875.

NOTICE TO AN ADVOCATE

2. The learned Senior Advocate representing the Municipal Corporation, tenders a copy of the affidavit of Shri. Arjun Ashok Giram, Assistant Commissioner, Zone-6, Municipal Corporation. The same is taken on record and marked as "Y-8" for identification. The learned Senior Advocate submits that an apology has been tendered for issuing a notice dated 23.01.2024 to the Advocate. The notice has been withdrawn. Unless the Corporation finds any part of the structure of the learned Advocate to be objectionable or beyond the construction permission or any other lapse, there would be no reason to issue him a notice.

ICY SPICY

3. With regard to the issue pertaining to the digging of the basement and construction of a mezzanine floor by an eatery, namely, icy spicy, thereby endangering the structural engineering of the whole multi-storeyed building, and the order passed by this Court on 22.02.2024, more particularly paragraphs 6, 7 and 8 set out therein, the Corporation has inspected

the said eatery. The seal has been removed to enable the proprietor to comply with the directions set out in the aforesaid order. We are informed that the Government Engineering College has conducted a panchnama with the assistance of special experts, and further steps would be taken by the said proprietor to re-do the basement as per the specifications and remove the mezzanine floor. This will be done under the supervision of Corporation Officials, PWD and the Government Engineering College. Once the directions of this Court are fully complied with, the said eatery would be permitted to resume its business subject to strict compliance of the terms of the permission that was granted to it by the Corporation.

4. The learned Advocates for the Applicant **Icy-Spicy**, in Civil Application No. 2631 of 2024 filed by the Applicant Proprietor of Icy Spicy, submits that both of them are withdrawing their appearances on behalf of Icy Spicy since another Advocate has caused appearance. The said learned Advocate who is now appearing, submits that he would tender an additional affidavit to this Court to indicate that

Applicant/Proprietor of Icy Spicy would sincerely obey the order of this Court and ensure that the directions set out in the earlier order pertaining to restoration of the shop to the original shape or form would be complied with. He seeks time to file an affidavit to this extent. Let such affidavit be filed within 15 days.

5. The learned Senior Advocate Shri. Deshpande further submits that the Additional Commissioner Shri Joshi has been transferred on account of the ensuing general elections, since he belongs to this District and as per the directions of the Election Commissioner, he has been transferred to Ahmednagar. A new Officer has taken his place, namely, Mr. Santosh Wahule. He tenders an additional affidavit of Respondent No. 11 from page nos. 1683 to 1883 and submits that appropriate steps would be taken constantly and it would be a continuous act of the Corporation in ensuring that there is no encroachment in the CIDCO Cannought place. Special surveillance is being maintained during the evening hours.

6. The amicus curiae submits that the situation in Cidco, pursuant to the orders of this Court dated 22.02.2024 and 07.03.2024, has drastically improved. Encroachment is being curbed and continuous steps are being taken by the Corporation to ensure that no further complaints are received and there is no further encroachment by any shopkeeper or commercial establishment or any eatery, etc.

7. List this PIL on 18th April, 2024 at 04.30 pm.

(R. M. JOSHI, J)
Malani

(RAVINDRA V. GHUGE, J)