

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

WRIT PETITION NO. 8946 OF 2015

Sk. Naziruddin Mohd. Isakuddin
and Others .. petitioners

Versus

State of Maharashtra and Others .. Respondents

Shri Zia Ul Mustafa, Advocate for Petitioners.
Smt. S. S. Raut, A. G. P. for Respondent Nos. 1 and 3 to 6.
Shri V. J. Dixit, Senior Counsel h/f Shri S. S. Shete, Advocate
for the Respondent No. 2.

**WITH
CIVIL APPLICATION NO. 162 OF 2016**

**CORAM : S. V. GANGAPURWALA AND
A. M. BADAR, JJ.
DATE : 12TH JANUARY, 2016.**

PER COURT :-

1. Mr. Mustafa, the learned counsel for the petitioners states that, as per the time granted by the Apex Court, the petitioners have removed their structures. However, the Municipal Council has not removed the other encroachments as per the orders passed by this Court.

2. This Court had passed a speaking order on September 1st, 2015. It is recorded that, the petitioners herein undertake to remove the encroachments caused by them over the municipal property within a period of two (2) months from today. As submitted by Mr. Mustafa, learned counsel the same is removed.

3. Mr. Dixit, the learned senior counsel submits that, Chief Officer has filed an affidavit and has placed on record the fact that the Resolution dated 30th August, 2015, was improperly passed and fresh Resolution is passed withdrawing the earlier Resolution.

4. It is submitted by the learned senior counsel that, the Chief Officer has filed affidavit stating that, the encroachments are removed. On 01.01.2016 special drive is initiated for the purpose of removal of encroachment as directed by this Court vide order dated 23.06.2015 passed in writ petition No. 2636 of 2014. The spot panchanamas are made, photographs are taken and video shooting is also done. It is further submitted by the learned senior counsel that, after dismissal of the S. L. P. three (3) encroacher's had filed writ petition bearing No. 353 of 2016 and the learned Vacation Judge had granted interim protection. The returnable date is fixed on 15th January, 2016. One of the petitioners in the said writ petition has removed his encroachment and the rest of the encroachment made by the other 2 petitioners were removed before the receipt of the interim order. The learned senior counsel on instructions of the Chief Officer who is present in the Court submits that, all encroachment's are removed. The said statement is disputed by Mr. Mustafa, the learned counsel for the petitioners.

5. Accepting the statement made by the respondent / Chief Officer, that encroachments are removed, we dispose

of the petition. If the petitioners have any independent grievance with regard to the encroachment the petitioners are at liberty to take appropriate steps.

6. This Court had issued show cause notice in Form 1, Rule 9, Chapter 34 of the Bombay High Court Appellate Side Rules, to the Chief Officer as to why action should not be initiated against him. Affidavit is filed stating that, the Resolution dated 30th August, 2015, was cancelled. The same was by mistake and subsequent Resolution is passed cancelling the Resolution dated 30th August, 2015. We accept the explanation and apology tendered by the Chief Officer. The notice of contempt issued against him as such is withdrawn.

7. Writ petition is accordingly disposed of. Civil application also stands disposed of.

[A. M. BADAR, J.]

[S. V. GANGAPURWALA, J.]

sam/Jan.15