

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.4187 OF 2015

Shri Nityanand Prabhakar Naik and Others. .. Petitioners
Vs
The Navi Mumbai Municipal Corporation & Anr. .. Respondents
—
Shri Ganesh Bhujbal for the Petitioners.
Shri Sandeep V. Marne for the Respondent No.1.
--

CORAM : A.S. OKA & C.V. BHADANG, JJ
DATED : 8TH FEBRUARY 2016

PC.

1. Heard the learned counsel appearing for the Petitioners and the learned counsel appearing for the first Respondent. The submission of the first Respondent Navi Mumbai Municipal Corporation is that the building in which the Petitioners are residing is completely illegal. He pointed out that the building consists of a ground plus four floors. He states that without prejudice to the rights of the City Industrial and Development Corporation of Maharashtra Limited (CIDCO) of taking an action of demolition in respect of the building, in the light of the law laid down by this Court in the judgment and order dated 15th December 2014 in Public Interest Litigation No.10 of 2012 (*Pani Haq Samiti & Ors. v. Brihan Mumbai Municipal Corporation & Ors*), the first Respondent will provide water supply to the building occupied by the

Petitioners in the form of a common water tap on the ground floor subject to the Petitioners paying requisite water charges. We accept the said statement made on instructions by the learned counsel appearing for the first Respondent.

2. In the Writ Petition, the Petitioners have not stated that the building has been constructed after obtaining the development permission from the Planning Authority. In fact, one of the agreements of sale of a flat in the building in question has been annexed to the Writ Petition in which there is no reference to any development permission or sanctioned plan.

3. Therefore, the Petitioners have no right to insist that they should be provided with the water supply on par with the occupants of the buildings which have been lawfully constructed.

4. Hence, we pass the following order:

ORDER :

- (a) We accept the statement made by the learned counsel appearing for the first Respondent on instructions;

- (b) We direct that the water supply in terms of the said statement shall be made available to the Petitioners within a period of one month from today;
- (c) We make it clear that grant of water supply will not create any equity in favour of the Petitioners;
- (d) We also make it clear that the grant of water supply will be without prejudice to the rights of the Planning Authority to take action of demolition;
- (e) The Petition is disposed of on above terms.

(C.V. BHADANG, J)

(A.S. OKA, J)