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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELATE JURISDICTION
WRIT PETITION NO.4622 OF 2015

M/s.Om Shri Sai Krupa Construction ...Petitioner
vs.
The State of Maharashtra & Ors. ...Respondents

Mr.G.S.Godbole a/w Ms Jai Kanade i/b Ms Sanjukta Dey for the Petitioner
Ms M.P.Thakur, AGP for the respondent No.1
Mr.A.S.Rao for respondent No.2
Mr.Nitin Dalvi for respondent No.3

CORAM : A.S.OKA, &
C.V.BHADANG, JJ.
DATE : JANUARY 28, 2016

P.C.:

1 The learned counsel for the respondent No.2 on instructions states that the respondent No.2 cannot justify the action which he has taken by issuing the impugned letter dated 12th February 2015 as the same cannot be supported by any provisions of law. We accept the said statement.

2 By the impugned communication, the respondent No.2 who was the Police Inspector, Bazarpeth Police Station, Kalyan issued a direction to the Commissioner of Kalyan Dombivali Municipal Corporation to stop the construction on the land being Survey No.10/1 and to cancel the building permission granted to the petitioner and to submit a report to the said police station.

3 The said order is ex-facie illegal as the respondent No.2 who has issued the said order is unable to justify the same. Even otherwise, there is no power vesting in the Police Officer to issue such directions.

4 Therefore, the writ petition must succeed and we pass the following order:

(I) Rule is made absolute in terms of prayer clause (b);

(II) We, however, make it clear that we have made no adjudication on the legality and validity of the construction made by the petitioner and all contentions of the petitioner as well as the respondent No.2 in that behalf are kept open.

(C.V.BHADANG,J.) (A.S.OKA,J.)