

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

CIVIL APPLICATION NO. 2249 OF 2016
IN
WRIT PETITION NO. 12839 OF 2015

Idea Cellular Ltd. & Anr. ..Applicants

v/s.

Pune Municipal Corporation & Ors. ..Respondents

Mr. Zubin Behram Kamdin i/b. Bharucha & Partners for the Petitioner.
Mr.R.M.Pethe for the Respondent No.1.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI,JJ.
DATED : SEPTEMBER 19, 2016.**

P.C.

1. Heard.
2. The writ petition is filed challenging impugned notice dated 11.6.2013 and order dated 17.11.2015 by the respondent Corporation imposing penalty on the applicant/petitioner no.1 in respect of OFCs (Optical Fibre Cables). After hearing the petitioner, this court granted ad-interim relief thereby restraining the respondent Corporation from taking any coercive action against the

applicants on the basis of the impugned notice in the petition.

3. The applicants are constrained to file the above application as according to them, the respondent Corporation withheld the other permissions required by the applicants for digging footpaths, roads etc for laying OFCs, on the ground that the petition is pending and interim relief is obtained.

4. We are of the opinion that the permission for digging for laying OFCs cannot be withheld on the ground of pendency of petition and interim relief obtained by the petitioner therein.

5. Mr.Pethe, learned Counsel for the Corporaton, however submitted that before granting such permission the applicants are required to comply with the other requirements spelt out in letter dated 11.7.2016, 22.7.2016 and 16.9.2016.

6. Mr.Kamdin, learned Counsel for the applicants also stated that they applicants are bound to comply with the said requirement, and the applicant's anxiety is that it should not be withheld only on the ground of pendency of the petition.

7. In the aforesaid circumstances, we dispose of the civil application by passing the following order:

i) The applicant is at liberty to file fresh application with the respondent Corporation for permission for digging up the footpath and road within the jurisdiction of the Pune Municipal Corporation for laying OFCs.

ii) In the event such application is preferred by the applicant, the respondent shall not withheld the permission on the ground of pendency of the petition and shall grant the same subject to the applicants complying with the other requirements mentioned in letters date 11.7.2016, 22.7.2016 and 16.9.2016.

8. Application is accordingly disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)