

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 10726 OF 2014

Salim Hasan Mansoori. ..Petitioner.
Versus
Thane Municipal Corporation. ..Respondent.

Mr. U. P. Warunjikar for the Petitioner.
Ms. Pooja R. singh i/b N. R. Bubna for Respondent No. 1.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **October 4, 2016.**

P. C. :

1. Heard. By this petition, the Petitioner is seeking
following reliefs :

"[a] be pleased to call the record and proceedings regarding the notice issued by the Respondent dated 7th August 2014 the consequential action of the Respondent regarding demolition of temporary patra shed constructed by the Petitioner in front of the shop of the Petitioner and after going through the same, be pleased to quash and set aside the notice and allow the Petitioner to reconstruct the said shed.

[b] be pleased to direct the Respondent to place on oath as to why action has not been initiated against other similarly situated persons.

[c] be pleased to award damages of Rs.5 lakh to the present Petitioner for the wrongful act committed by the Respondent."

2. The designated officer of the Respondent corporation issued notice dated 7th August 2014 under section 260 of the

Maharashtra Municipal Corporation Act in respect of a tin shed admeasuring 20X20 ft. erected by the Petitioner without obtaining permissions from the Competent Authority. The grievance of the Petitioner is that though he had replied to this notice on 8th August 2014, the corporation demolished the said tin shed structure on 14th August 2014, i.e., before completion of 15 days period mentioned in the notice.

3. We have gone through the Petitioner's reply. It is not the case of the Petitioner either in the writ petition or in the reply given to the notice that the said shed was erected after obtaining permission from the Competent Authority. Hence, the Petitioner is not entitled to reconstruct the shed merely because the same was demolished before completion of 15 days period mentioned in the notice. The Petitioner is always at liberty to apply for permission and the corporation shall consider the same in accordance with law.

4. Mr. Warunjikar, the learned Counsel appearing for the Petitioner submitted that the coproration has not taken similar action against the persons who ave erected similar types of tin sheds in the vicinity of the subject premises. Considering that the Petitioner had

himself constructed an unauthorised structure we are not inclined to consider this prayer. The Petitioner is at liberty to make proper application / representation to the Corporation in this regard. Needless to say that the corporation shall consider the same in accordance with law.

5 Subject to above, writ petition is dismissed.

[SMT. ANUJA PRABHUDESSAI, J.]

[RANJIT MORE, J.]