

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO. 1191 OF 2016

Mrs. Shivani Sanghvi and Ors.	}	Petitioners
versus		
Hindi Vidya Bhavan Society	}	
and Ors.	}	Respondents

Mr. R. A. Dada - Senior Advocate
i/b.Mr.Amol Dojode for the petitioners.

Mr. J. P. Sen - Senior Advocate with
Mr.Jai Chabbria and Mr. Vishesh Malviya
i/b.M/s. Federal and Rashmikan for
respondent nos. 1 and 2.

Mr. Rui Rodrigues for respondent no. 3.

**CORAM :- S. C. DHARMADHIKARI &
DR. SHALINI PHANSALKAR-JOSHI, JJ.**

DATED :- JUNE 28, 2016

P.C. :-

1) This petition was moved and urgently by the students of a school, which is managed and administered by a Trust styled as Hindi Vidya Bhavan Society respondent nos. 1 and 2.

2) That school building comprises of ground plus eight floors. It has its access from the East side of popularly known as Marine Drive, Mumbai. This school, which is managed and administered by the public charitable trust registered under the Bombay Public Trust Act, 1050, imparts education in pre-

primary, primary and secondary sections. There are about 1800 students. The third respondent is the University of Mumbai through its Vice Chancellor. The sixth and seventh respondents are Municipal Corporation of Greater Mumbai and its Assistant Municipal Commissioner.

3) We are not concerned with the pending dispute between the University and respondent nos. 1 and 2. All that we are concerned with is the grievance of the parents that the building had a compound wall and which had blocked the access of the children directly on the road, which is a public road. Since such entry of the children except through a permitted gate was blocked on account of this compound wall, that acted as a safety and security measure as well. The removal of this compound wall has endangered the safety of children and particularly exposed the school building on the side facing the road. It is stated that after the terrorist attacks in the city of Mumbai and elsewhere so also school buildings being targeted repeatedly, for the safety of the children, the direction as prayed in terms of prayer clause (a) be issued.

4) On the earlier occasion, we issued notice to the University and granted time to the counsel appearing for the University to take instructions. The matter was placed today at

the request of Mr. Rodrigues, who appears for respondent no. 3 University. When the matter was placed before us, Mr. Rodrigues has conveyed the approval of the University and the Vice Chancellor, by which, the University would have no-objection to the Trust constructing the compound wall, which was standing at the site and as earlier. With the same size, dimension and height the compound wall can be permitted to be constructed. However, Mr. Rodrigues informs that there is a dispute with regard to the access from the road to the University's sports ground and pavilion. That access was to be kept free and at all times so as to enable those seeking to enter the University pavilion and for sports activities there should be free entry and exit.

5) As far as the later aspect is concerned, the Trust and the school have their own version and they would submit that nothing has been done to block that access and it is available as stipulated in the terms and conditions of the allotment/lease of the land in favour of the school as also the agreement and understanding with the University and the State.

6) We clarify that we do not wish to enter into this dispute and being factual in nature. Since some proceedings are pending before this court in relation thereto, it would be better if we express no opinion on the rival contentions, on that aspect, of

both sides. Once Mr. Rodrigues has conveyed the no-objection of the University and the statements that he has made on instructions sufficiently protect the interest and safety of the children and the concern of their parents, we direct that respondent nos. 1 and 2 shall commence and complete the construction of the compound wall so as to protect and safeguard this school building from the exposure to the road facing the school. Such construction shall be made strictly in accordance with the sanctioned and approved plans, which are stated to have been approved by the Municipal Corporation of Greater Mumbai. Similarly, all terms and conditions of the agreement for lease shall also be abided by in relation to this construction.

7) As far as other complaint of the University and equally the answer thereto by the school and the Trust, we clarify that we express no opinion and that can be decided either in the pending proceedings or such appropriate proceedings as may be instituted by the parties.

8) Needless to clarify that while the compound wall is being erected, the school should ensure that there are security guards posted at the entrance of the school premises and particularly the gate from which the children exit the school premises or building. We clarify that no-objection of the

University shall not be construed as any admission on the part of it in regard to its right, title and interest in the immovable property. That will be the position as far as the Trust and the school as well. We clarify that if any gate is erected at the site so as to protect the school premises and the children from exposure to the road and directly, then, that erection and construction of compound wall shall not in any manner violate the other terms and conditions as are imposed on the school and the management and therefore, the clear access to the University's ground on Eastern and Western sides shall not be disturbed in any manner.

9) It is stated on behalf of the school that the construction of the compound wall would be completed within a period of four weeks from the date the approvals and sanctions are received from the Municipal Corporation.

10) With the aforesaid directions, the writ petition is disposed of.

(DR. SHALINI PHANSALKAR-JOSHI, J.) (S.C.DHARMADHIKARI, J.)