

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1828 OF 2016

Hastimal Rupchand Hiran,

(Since deceased through his Lrs.)

1a. Smt. Kantadevi Hastimal Hiran and Others. .. Petitioners

Vs

Mira Bhayandar Municipal Corporation & Anr. .. Respondents

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Shri Chitan Shah i/b Ms. Monica P. Kshirsagar for the Petitioners.

Shri M.S.Lagu for the Respondent No.1.

Shri M.M. Pabale, AGP for the Respondent No.3.

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CORAM : A.S. OKA &
SMT. VIBHA KANKANWADI, JJ
DATED : 10TH JULY 2017

PC.

1. Heard learned counsel appearing for the Petitioners and the learned counsel appearing for the first Respondent Municipal Corporation.

2. The learned counsel appearing for the first Respondent states that now the Mumbai Metropolitan Region Development Authority is no longer the Planning Authority for the area subject matter of this Petition and now the first Respondent Municipal Corporation is the Planning Authority.

3. The grievance made in this Petition under Article 226 of the Constitution of India is that though the Petitioner by a letter dated 15th

December 2014 pointed out to the Commissioner of the first Respondent that illegal construction has been carried out on the property bearing C.T.S. No.234 at Village Uttan, District-Thane, the first Respondent Municipal Corporation has not taken any action of demolition.

4. The allegation is that the construction has been carried out on a public road. Reliance is placed on the Exhibits-E and F to the Petition which is the information furnished to the Petitioner by the first as well as second Respondents in which it is stated that permission for carrying out construction on the land bearing C.T.S. No.234 is not on record of both the Respondents.

5. In view of the aforesaid factual aspects, we need not keep the Petition pending and we pass the following order:-

ORDER :

- (a) We direct the Designated Officer of the first Respondent to visit the site in question after notice to one Shri Suresh Rana whose name has been mentioned in the representation dated 15th December 2014 made by the Petitioners;

- (b) After visit to the site in question, the Designated Officer of the concerned Ward of the first Respondent shall ascertain whether there is any illegal construction carried out. If it is found that any illegal construction has been carried out on the site in question, the Designated Officer of the first Respondent shall immediately initiate action for demolition of illegal constructions;
- (c) We make it clear that no action of demolition shall be taken unless an adequate opportunity of being heard to all the affected parties is given. The action taken on the representation of the Petitioners shall be communicated to the Petitioners within a period of three months from today;
- (d) We make it clear that we have not made any adjudication on the question whether the construction carried out on the land bearing C.T.S.No.234 is legal or illegal;
- (e) The Petition is disposed of on above terms.