

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

**Writ Petition NO. 1537 OF 2017**

Nashik Agricultural Produce Marketing  
Committee, Nashik ...Petitioner

*Versus*

Nashik Municipal Corporation And Ors ...Respondents

---

**With**

**Writ Petition (St.) NO. 3284 OF 2017**

....

Mr. Kishor S. Patil, Advocate for the Petitioner.

Mr. M.L. Patil, Advocate for Respondents No.1 to 3.

Mr. Ramdas Rahade, Civil Engineer, present in Court.

....

CORAM : R. G. KETKAR, J.

DATE : 07<sup>th</sup> FEBRUARY, 2017

P.C.

1. Not on board. At the request of Mr.Patil taken up for admission.

2. Heard Mr. Kishor Patil, learned Counsel for the petitioner and Mr.M.L. Patil, learned Counsel for the respondents in both the petitions, at length.

3. W.P. No.1537/2017 is directed against (1) the judgment and order dated 24.11.2016 passed by the learned 3<sup>rd</sup> Jt. Civil Judge, Senior Division, Nashik below Exhibit-5 in R.C.S. No.731/2015 as also (2) the judgment and order dated 20.1.2017 passed by the learned District Judge-9, Nashik in Misc. Civil Appeal No.145/2016. By these orders, the Courts below rejected the application below Exhibit-5 filed by the petitioner, hereinafter referred to as the 'plaintiff'.

4. W.P. (St.) No.3284/2017 is directed against (1) the judgment and order dated 24.11.2016 passed by the learned 3<sup>rd</sup> Jt. Civil Judge, Senior Division, Nashik below Exhibit-5 in R.C.S. No.732/2015 as also (2) the judgment and order dated 20.1.2017 passed by the learned District Judge-9, Nashik in Misc. Civil Appeal No.144/2016. By these orders, the Courts below rejected the application below Exhibit-5 filed by the plaintiff.

5. Mr. Kishor Patil states that the representative of the petitioner Mr.Ramdas Govind Rahade, Civil Engineer, is present in Court. He has tendered photocopy of his Driving Licence, which is taken on record and marked 'X' for identification. Upon

taking instructions from him, Mr. Patil states that :

- i) The petitioner will withdraw Regular Civil Suit No.731/2015 and Regular Civil Suit No.732/2015 filed in the Court of Civil Judge, Senior Division, Nashik unconditionally within two weeks from today. The learned trial Judge may be directed to permit the petitioner to withdraw the suits upon production of the authenticated copy of this order;
- ii) The petitioner will not carry out any further construction in respect of the offending structure. In other words, the petitioner shall maintain status quo of the offending structure;
- iii) The petitioner shall file appeals in both the matters under Section 47 of the Maharashtra Regional and Town Planning Act, 1966 within one week from today before the State Government. Along with Appeals, the petitioner will also file applications for interim relief.
- iv) The petitioner shall press for appropriate interim relief and for that purpose the respondent Corporation may be

directed not to take any precipitative steps in pursuance of the impugned orders.

- v) Interim protection may be continued for a period of six weeks from today and the same may stand dissolved automatically without further reference to the Court after six weeks from today.
- vi) The petitioner will neither create third party interest nor part with the possession of the offending structure.

6. The statements made by Mr. Kishor Patil, on instructions, are accepted.

7. Mr. M.L. Patil has no objection for disposal of the Petitions on the basis of these statements.

8. In view thereof, the Petitions are disposed of in the following terms:

- i) The petitioner will withdraw Regular Civil Suit No.731/2015 and Regular Civil Suit No.732/2015 filed in the Court of Civil Judge, Senior Division, Nashik unconditionally within two weeks from today. The learned trial Judge will permit the petitioner to withdraw the suits upon production of the authenticated copy of this order

- ii) The petitioner will not carry out any further construction in respect of the offending structure. In other words, the petitioner shall maintain status quo of the offending structure;
- iii) The petitioner shall file appeals in both the matters under Section 47 of the Maharashtra Regional and Town Planning Act, 1966 within one week from today before the State Government. Along with Appeals, the petitioner will also file applications for interim relief.
- iv) The petitioner shall press for appropriate interim relief and for that purpose the respondent Corporation shall not take any precipitative steps in pursuance of the impugned orders for a period of six weeks from today. The petitioner shall not pray for further continuation of the interim relief.
- v) Interim protection is continued for a period of six weeks from today and the same shall stand dissolved automatically without further reference to the Court after six weeks from today.
- vi) The petitioner shall neither create third party interest nor part with the possession of the offending structure.
- vii) Both the petitions are disposed of in aforesaid terms with no order as to costs. Order accordingly.

(R. G. KETKAR, J.)