

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

**WRIT PETITION NO. 2175 OF 2014  
WITH  
WRIT PETITION NO. 2176 OF 2014**

Mallesh S. Matla

.. Petitioner

v/s.

Municipal Commissioner of Navi  
Mumbai Municipal Corporation & Ors.

.. Respondents

Mr. Tushar Sonawane for the petitioner

Mr. Ajay Patil for respondent nos. 1, 2 and 3

Ms. Sharmila Deshmukh for respondent nos. 2 in WP-2175/14 for  
respondent no.4 in WP-2176/14

**CORAM : M.S. SANKLECHA, J.**

**DATED : 26<sup>th</sup> SEPTEMBER, 2017**

**P.C.**

1. These two petitions under Article 227 of the Constitution of India challenge the common order dated 12<sup>th</sup> February, 2014 passed by the Adhoc-District Judge, Thane. By the common impugned order, the appeal of respondent no.1 i.e. Navi Mumbai Municipal Corporation (Corporation) was allowed, thus setting aside the order dated 25<sup>th</sup> March, 2013 (WP No.2176 of 2014) of the trial Court which had restrained the respondent no.1 Corporation from adopting any coercive proceedings to take vacant possession of the

suit property and from disconnecting the water and electricity supply made available to the suit property till the disposal of the suit. Further, the common impugned order dismissed the appeal of the petitioner thus upholding the order dated 12<sup>th</sup> July, 2013 (WP No.2175 of 2014) of the trial Court rejecting the interim reliefs.

2. In both these petitions, suits have been filed before the Civil Judge, Thane seeking a declaration that the threat of the respondent no.1 Corporation to demolish such building is illegal. One of the issues which arise in both these petitions is whether the suit buildings were constructed without obtaining the necessary permission from the Maharashtra Coastal Zone Management Authority (MCZMA) is legal as the suit buildings fall in Coastal Regulation Zone-II (CRZ-II). In the above view, this Court had directed that MCZMA be made a party to these proceedings. Ms. Deshmukh appears on its behalf and states that affidavit-in-reply on behalf of the MCZMA has also been filed opposing the petition.

3. It is an agreed between the parties that the proceedings before the trial Court could be expedited to finally

determine whether or not the construction of the suit buildings was in accordance with law. Admittedly, the view taken by the impugned orders is a *prima facie* view at the interim stage. Therefore, before any drastic action of demolition of the suit building is taken, it must rest on firmer foundation than a mere rejection of interim application. Thus, it would be in the interest of justice that till such time as the trial Court finally determines the rights of the parties, the petitioners should be protected. In the meantime, it would not be just to give a license to the Corporation to demolish the suit building or stop the supply of water and electricity to it. However, as the suit is of the year 2013 and ad-interim stay has been granted by this Court to the trial Court proceedings by order dated 13<sup>th</sup> March, 2014 in both the petitions. This coupled with the alleged violation of constructing the buildings on CRZ-II, the suit requires to be tried expeditiously, as the same has an impact on the environment.

4. In the above view, the trial Court is requested to decide the suit as expeditiously as possible and preferably within nine months from today. The petitioner is directed to make MCZMA also a party to the proceedings and subject to the time given by the trial Court to

carry out the necessary amendment and to serve the complete papers and proceedings upon the MCZMA. In the meantime, status-quo order granted by this Court on 13<sup>th</sup> March, 2014 to continue till the disposal of the suit and for a period of one month thereafter if the result is adverse to the petitioner.

5. Mr. Sonawane, learned Counsel appearing for the petitioner, on instructions, undertakes that he would make an application to the trial Court within two weeks from today to make MCZMA as a party to the proceedings. Further, the parties state that they would co-operate with the Court for early disposal of the suit.

6. I enquired of Mr. Sonawane, learned Counsel appearing for the petitioner whether the two suits namely RCS No.40 of 2013 filed in the Civil Court at Vashi and Special Suit No.41 of 2013 filed at Thane could be clubbed as the cause of action are identical. At this, Mr. Sonawane sought time to take instructions and on instructions. On taking instructions, he states that RCS No.40 of 2013 filed in Vashi Court has already been withdrawn on 19<sup>th</sup> January, 2017. In the above view, the only suit now remained to be prosecuted by the

plaintiff is Special Suit No.41 of 2013.

7. Both the petitions are disposed of in the above terms. The two Civil Applications one in each of the petitions also stand disposed as none appear for the applicants. In fact, on earlier occasion when this civil application was on board, none appeared for the applicants. It appears that the applicants are not interested in prosecuting the civil application. Therefore, dismissed.

8. Parties to act on an authenticated copy of this order.

**(M.S. SANKLECHA, J.)**