

Jsn

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

WRIT PETITION NO. 6083 OF 2014

Yatin Tailor & Anr. ... Petitioners
Versus
Dahanu Municipal Council & Ors. ... Respondents

Mr. R.D. Soni, with Mr. H.N. Vakil & Ms. S.M. Vakil & Mr. A.Shah
i/b Mulla & Mulla Craigie Blunt & Caroe for the Petitioners.
Mr. Rajesh Datar, for Respondent No.1.
Ms. Kavita Solunke, AGP for Respondent No.2 – State.
Mr. Arjun Wadekar, i/b K. Cheffian & Victor Chettian for
Respondents Nos. 4 to 6.

**CORAM: SMT. VASANTI A NAIK AND
RIYAZ I. CHAGLA, JJ.**

DATED: 4th OCTOBER 2017

PC:-

By this Writ Petition, the petitioners seek a direction against the respondents Nos. 1 and 2 – the Dahanu Municipal Council and the Town Planning Authority, Thane Region to forthwith take action against the respondent Nos. 3 to 6 – landlords under the provisions of the Maharashtra Regional and Town Planning Act for violating the building bye-laws as well as the permissions, while effecting the construction on Survey No. 126 -B/1, where the Petitioners are residing as tenants. Since the representation of the Petitioners was not decided by the Dahanu Municipal Council and since according to the Petitioners, the respondent Nos. 3 to 6 – landlords had carried out illegal construction that has seriously

affected the Petitioners, the present Petition is filed.

During the pendency of this Writ Petition, by an order dated 1st July 2014, we had directed the Chief Officer of the Dahanu Municipal Council to look into the representation made by the petitioners through their advocate on 4th April 2014 and find out whether any illegality is committed by the respondent Nos. 3 to 6. The respondent No.1, Corporation was directed to inform the Court whether action would be taken by the Chief Officer against the respondent Nos. 3 to 6, if an illegality is found in making the construction.

In pursuance of our order dated 1st July 2014, the respondent Municipal Corporation had agreed to hear the petitioners but since the petitioners desired that they should be represented by their Architect who is not on the panel of the Municipal Council, the Municipal Council had refused to grant permission to the petitioners to be represented by the said Architect. The said order is also impugned in the present Writ Petition.

On the previous date of hearing, this Court had made a query to the counsel for the Municipal Council, whether the Municipal Council would in the interest of justice, agree to hear the

Architect who would represent the petitioner. The learned counsel for the Municipal Corporation states, on the basis of the written instructions from the Municipal Council vide communication dated 15th September 2017 that the Municipal Council, is ready to hear the petitioners through their Architect. It is stated that reasonable time may be granted to the Municipal Council to decide the representations of the petitioners after hearing the petitioners and the respondent Nos.3 to 6 – landlords.

From the statements recorded hereinabove, we find that the grievance of the petitioners should stand redressed. Hence, we dispose of this Writ Petition with a direction to the respondent No.1 to decide the representation of the petitioners within four months and if it is noticed that the respondent Nos. 3 to 6 have violated the regulations or have carried out the construction without necessary permissions, the respondent No.1 Municipal Council should take appropriate action against the respondent Nos. 3 to 6 within a reasonable time. It is needless to mention that the earlier order of the Municipal Council, rejecting the applications of the petitioners would stand eclipsed by this order. No costs.

(RIYAZ I. CHAGLA J.)

(SMT. VASANTI A NAIK, J.)