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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7862 OF 2014

Kestrel Infrastructure Pvt. Ltd.	.. Petitioner
Vs.	
Ulhasnagar Municipal Corporation & Ors.	.. Respondents

WITH
CIVIL APPLICATION NO. 2018 OF 2016
IN
WRIT PETITION NO. 7862 OF 2014

Ulhasnagar Municipal Corporation Ulhasnagar, Dist. Thane.	.. Applicant
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In the matter between

Kestrel Infrastructure Pvt. Ltd.	.. Petitioner
Vs.	
Ulhasnagar Municipal Corporation & Ors.	.. Respondents

Mr. A. V. Anturkar, Senior Advocate i/by Mr. N. R. Bubna for petitioner.
Mr. M. V. More for respondent-Corporation.

CORAM: NARESH H. PATIL &
M. S. KARNIK, JJ.

FEBRUARY 06, 2017.

P.C.

1. Petitioner prays for quashing and setting aside the order dated 13/8/2014 passed by the respondent no.2 blacklisting the petitioner as a contractor. During the course of argument, learned Senior Counsel

appearing for the petitioner raised further issues, one was for seeking appropriate direction to protect the possession of the subject property, which is used by the petitioner for parking buses. As the Commissioner issued communication to the petitioner to handover the subject plot of land, the petitioner is making request to the court to protect the possession of the petitioner. Learned counsel further raised issue and prayed for direction to the respondent-Corporation to refer the relevant issue to Arbitrator to save time of the parties.

2. As regards the first issue of blacklisting the petitioner, the learned counsel appearing for the Corporation, on written instructions, submits that the Commissioner is willing to hear the petitioner afresh and pass an order thereafter. In respect of the second issue of grant of protection to the petitioner regarding possession of the subject plot, we observe that the petitioner, who had already resorted to a civil forum, may agitate the said issue before the civil forum. In respect of the third issue of referring the matter to the Arbitrator, we observe that such arrangement could be made only with the consent of the parties.

3. Learned Senior Counsel appearing for the petitioner, at this

stage, submits that a statutory notice was not given to the Corporation before filing the suit i.e. Regular Civil Suit No. 22 of 2017. The petitioner would resort to appropriate remedy by complying the statutory requirement. Learned counsel, therefore, seeks continuation of the earlier ad-interim / status quo order for a period of six weeks.

4. In view of the statement made by the learned counsel appearing for the Corporation, we quash and set aside the order dated 13/8/2014 passed by the respondent no.2. We remand the matter back to the Commissioner. All the necessary parties be heard by the Commissioner, including the petitioner and thereafter appropriate reasoned order be passed within three months from today.

5. With the aforesaid directions and observations, the petition is partly allowed. The order of status quo granted earlier in the proceeding of this petition in respect of subject plot is continued for a period of six weeks. It is clarified that the status quo order granted is restricted in respect of the possession of the plot only.

6. Civil Application No. 2018 of 2016 does not survive and disposed of accordingly.

(M. S. KARNIK, J.)

(NARESH H. PATIL,J.)