

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.31 of 2017

Rajkumar Parumal Ramchandani
and another .. Petitioners
Versus
The Pimpri Chinchwad Municipal
Corporation and ors .. Respondents

...

Mr. Vasant Raut for the petitioner.
Mr.G.H.Keluskar for respondent nos.1 and 2.
Mr.V.N.Sagare, AGP for respondent State.

**CORAM: DR. MANJULA CHELLUR, CJ. &
M.S.SONAK, J.**

DATED: 10th NOVEMBER, 2017

P.C.:-

1 The main contesting party is the first and second respondents who are responsible for alleged shortening of the ramp instead of original approved ramp in length measuring 160 meters towards Mumbai side. Apparently, two ramps were decided to be put up for the use of passengers connecting to service roads by the respondent nos.1 and 2 authorities i.e. Pune-Mumbai service road towards railway line. One ramp was towards Pune side for approaching the

Bhasai-Wakad lane of the flyover bridge and another is towards Mumbai side for exit from Wakad-Bhosari lane of flyover bridge to Pune Mumbai service road.

2 The problem seems to be with regard to alleged ramp of 160 meters in length towards Mumbai side which ought to have been put up on certain land belonging to third parties. According to the petitioner, the respondent nos.5 to 12 have unauthorizedly put up some construction on the said unbuildable land which ought to have been used for construction of ramp of 160 m in length Mumbai side to the Pune-Mumbai service road. Therefore, there is decrease in the length of the said ramp and respondent authorities have totally neglected to take any action against the said unauthorized occupants on the unusable or unbuildable land.

3 Whether a ramp has to be in length of 160 m or it could be lesser than that, is a matter of expertise over which this Court cannot express any opinion. On the other hand, the reply affidavit of the respondent nos.1 and 2 indicate that they initially planned to construct 160 m length Ramp II, but

since the experts were of the opinion it may lead to accidents for passengers who would approach Kasarwadi Railway station and vice-versa, Municipal Corporation decided to put up RCC box type structure of size 10.05 m x 4.0 m x 5.50 m as main access to Kasarwadi railway station for the passengers. This is approved as GAD ramp, and this is parallel to Pune-Mumbai highway. According to them, this does not obstruct traffic flow as contended by the petitioner. It is further stated that Municipal Corporation tried to negotiate with the land owner to acquire non-buildable land, but the owners did not agree to hand over their land in lieu of compensation offered by the authorities. Therefore, respondents decided to accommodate the Ramp II within 61.0m railway over bridge. The Municipal Corporation decided to reduce the overall width of Ramp II after obtaining opinion from one Mr.M.V. Patil, an expert, Retired Secretary of Government of Maharashtra. It is further said that the total width of service road available is 16.0m and after construction of Ramp II, available width of service road is 10.50 m i.e. capable of three motor vehicle lanes each of 3.5

meters as per Indian Road Congress (IRC) norms. At paragraph nos.12 and 13 of their affidavit, they have clearly indicated why they could not take possession of the land from the affected land owners for construction of 160 m length Ramp. It would be just and proper to incorporate paragraph nos.12 and 13 with regard to the action initiated by the Corporation against the unauthorized structures which read as under :-

- 12 With reference to Para no.13 of the petition I deny the truth and correctness of the statements made therein. I deny that the Respondent Nos.1 and 2 and the concerned officers of the Respondent No.1, under high handed political influence and with malafide intention and ulterior motive, and in collusion with the Respondent Nos.5 to 12, started construction of the ramp towards Kasarwadi Railway Station in the Pune-Mumbai Service Road and they increased the length of the said Ramp from 160 meters to 300 meters towards Kasarwadi Railway Station with malafide intention and ulterior motive to protect the interest of the Respondent Nos.5 to 12. I deny that the Municipal Corporation acquired unbuildable land. I further say that the Municipal Corporation issues notice under section 53 of the Maharashtra Regional Town Planning Act to respective occupier regarding unauthorized construction which was standing on 61.0m wide road and an unauthorized

structures already removed. Prior to filing of the petition. Hereto annexed and mark as Exhibit "5" is the copy of the said notice and hereto annexed and mark as Exhibit "6" is the copy of the statement given by Mr.Gill responsible person for the unauthorized construction.

- 13 Length of the Ramp is decided as per IRC guideline which is 295.0 m. I say that Municipal Corporation has provided Box of size 10m x 4.0m x 5.5m to facilitate easy and safe access to Railway Passengers at ticket house. The Municipal Corporation had started the construction of the Ramp within 61.0 m wide ROW for which Municipal Corporation had sought opinion from Mr.M.V. Paril, Retired Secretary of Government of Maharashtra. Hereto annexed and marked as Exhibit "7" is copy of opinion given by Shri M.V. Patil, Retired Secretary of Government of Maharashtra. I say that available width of the service road after construction of Ramp is 10.50m. Hereto annexed and marked as Exhibit "4" is the copy of GAD of Ramp II.

5 In the light of necessary action taken, so far as removal of unauthorized structures and also by putting up RCC box type access for passengers to have access to railway station, we are of the opinion that the respondent authorities have initiated action in the right direction.

6 In order to satisfy ourselves, by order 28th July 2017, we had directed an inspection by the Executive Engineer from PWD and the Police Officials. The Inspection reports have been placed on record, and they state that the ramp, as planned, is sufficient to cater to the traffic policy and will not create any traffic congestion. The traffic analysis report and site visit photographs have also been placed on record. This is an additional reason for not to pursue this matter any further.

7 It is needless to say that they are expected to take the initiation of the proceedings to a logical end so far as unauthorized structures which would come in the way of free movement of the passengers. If said constructions are put up on the private land belonging to someone else, we fail to understand how the petitioner could seek the authorities to take action. If said construction is on a land which cannot be used for construction, then the petitioners are at liberty to represent to the concerned authority without connecting the matter to the railway ramp and seek removal of the

unauthorized construction. Such representation shall be given within one month from today and the said representation has to be disposed of within two months thereafter after hearing not only the petitioner but also the occupants alleged to have put up unauthorized structures.

8 With these observations, petition is disposed of.

(M.S.SONAK, J)

(CHIEF JUSTICE)