

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.9540 OF 2015

Mr.Anand Mishra i/b Mr.A.M.Saraogi for the
Petitioner
Mr.Manish Pabale, AGP for the respondent No.1
Mr.Sandesh Deshpande for respondent No.4
Ms Manisha Jagtap and Mr.Akshay Kapadia i/b J.
Shekhar & Co. for respondent No.2

. Not on board. Taken on board.

"4 I say that we have received several complaints from the Petitioner as well as other Gala-holders from the locality whereby the Petitioner as well as other Gala-holders

is doing their business. I say that pursuant to that complaint dated 16.4.2015 notices were issued to Respondent Nos.3 and 4 under section 260 (1) and (2) of the Maharashtra Municipal Corporation Act, 1949 and under Sections 52, 53, 54 and 55 of the Maharashtra Regional and Town Planning Act,1966. I say that I will comply the Notice dated 16.4.2015 issued under section 260(1) and (2) of the Maharashtra Municipal Corporation Act,1949 and under Section 52, 53, 54 and 55 of the Maharashtra Regional and Town Planning Act,1966 by Respondent No.2 and accordingly I will take necessary steps within 15 days from today."

2 The learned counsel for the second respondent-Corporation states that the second respondent may be permitted to withdraw the affidavit tendered on 5th July 2017.

3 In view of what stated in the notice dated 16th April 2016, the same will have to be treated as show cause notice by granting a reasonable time to the third and fourth respondents to file a reply. Appropriate order will have to be passed by the designated Officer or the Competent Officer of the Municipal Corporation.

4 The learned counsel for the petitioner states that the affidavit of the fourth respondent tendered today shows that yesterday a Tarpauline sheet was

put on the shop in question just to show that there is no unauthorized construction. In this petition it is not necessary for us to decide this contention.

5 Hence, we dispose of this petition by passing the following order:

- (I) We accept the statement made in paragraph 4 of the affidavit of Shri Maruti Gaikwad dated 6th July 2017 as the statement made on behalf of the second respondent;
- (II) The second respondent shall serve a copy of notice dated 16th April 2015 to the third respondent calling upon the third respondent to show cause as to why action of demolition should not be taken in respect of the structure mentioned in the said notice. It will be open for the fourth respondent to file a reply showing cause as to why action in respect of the structure in the notice dated 16th April 2016 should not be taken;
- (III) The fourth respondent shall file a reply within a period of four weeks from today. Time of three weeks is granted to the second respondent to serve a copy of the notice to the third respondent;
- (IV) The Competent Officer/designated Officer of the Municipal Corporation shall pass an appropriate order on the notice after giving an opportunity of being heard to the third and fourth respondents, if they choose to file a

reply;

(V) The order shall be passed by the said Officer as expeditiously as possible and in any event within a period of three months from today;

(VI) All the contentions of the parties on merits are kept open;

(VII) It will be open for the petitioner to make a written representation to the concerned designated Officer based on the aforesaid notice;

(VIII) Writ petition is disposed of on above terms.

(VIBHA KANKANWADI, J.)

(A.S.OKA, J.)