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

**WRIT PETITION NO. 10980 OF 2017**

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| Shramik Hawkers Sena, Nashik         | ... Petitioner |
| <i>Versus</i>                        |                |
| Nashik Municipal Corporation, Nashik | ...Respondent  |

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Mr. S.M. Gorwadkar, Senior Advocate, with Mr. S.H. Gangal with  
Mr. Mankirat Singh i/b Mr. Niranjan Mogre, for the Petitioner.  
Mr. Murlidhar L. Patil, for Respondent No.1.  
Mrs. K.N. Solunke, AGP for State.

**CORAM: SMT. VASANTI A NAIK AND  
RIYAZ I. CHAGLA, JJ.  
DATED: 11th OCTOBER 2017**

**PC:-**

The only prayer made by the petitioner – Shramik Hawkers Sena, Nashik in this writ petition is for a declaration that the respondent Nashik Municipal Corporation cannot prevent the members of the petitioner association from conducting their business of hawking and vending at Natural Market, Nehru Garden without following the provisions of the Street Vendors Act, 2014 and Maharashtra Rules 2016.

Shri Gorwadkar, the learned senior counsel appearing for the petitioners Shramik Sena, submitted that the issue of relocation and removal of the hawkers from public places by the Corporation and the other local authorities without implementing the provisions of the Maharashtra Street Vendors (Protection of Livelihood and Regulation of Street Vending) Maharashtra Rules,

2016 came up for consideration before this Court in writ petition no. 224 of 2011 and this Court has, by the judgment and order dated 23rd October 2015 in the case of ***Vile Parle Kelvani Mandal and ors. Vs. Municipal Corporation of Greater Mumbai & Ors.***<sup>1</sup> directed the Corporation to take action only as per the guidelines that are laid down by the Court in paragraph 56 of the said judgment. It is submitted that the grievance of the petitioner Shramik Sena would stand redressed, if the Court directs the Corporation to comply with the guidelines laid down in the order in paragraph 56 of the said judgment.

The learned counsel for the Corporation submitted by referring to the affidavit in reply filed on behalf of the respondent Corporation that about 26 street vendors were carrying on their business in the said area and they were cooking food on the street, which is contrary to the order of the Supreme Court and the High Court in the judgment of ***Maharashtra Ekta Hawkers Union & Anr. Vs. Municipal Corporation, Greater Mumbai & Ors.***<sup>2</sup> it is submitted that in view of the provisions of Rule 29 of the Maharashtra Street Vendors (Protection of Livelihood and Regulation of Street Vending) Maharashtra Rules, 2016, the earlier actions are saved.

On a reading of the judgment reported in ***Vile Parle Kelvani (Supra)***, it appears that the same would squarely apply to the case in hand, which is based on identical set of facts. Hence, it would be necessary to dispose of the writ petition with a direction

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1        2015 (6) AIR Bom. R. 609.

2        (2014) 1 Supreme Court Cases 490.

against the respondent no.1 Corporation to follow the guidelines that are laid down in the judgment and order reported in ***Vile Parle Kelvani (Supra)***. If some of the members of the petitioner Shramik Sena are engaged in preparation or cooking of food items in the area near Nehru Park, action for their eviction could be initiated by the Corporation. However, the other hawkers and vendors that are covered by the definition of clause 1 of Section 2 of Street Vendors Act would be entitled to protection against eviction and relocation as provided under Sub-section (3) of Section 3 of the Act of 2014, if they are not engaged in preparation or cooking of food.

Hence by partly allowing the writ petition, we direct the respondent Corporation to either protect the hawkers – vendors that are entitled to protection as per the guidelines laid down in paragraph 56 of the judgment in the ***Vile Parle Kelvani (Supra)*** or to take steps for their eviction, if they are engaged in cooking food items on the street or the area near the Nehru Park. Order accordingly. No order as to costs.

( RIYAZ I. CHAGLA J. )

( SMT. VASANTI A NAIK, J. )