

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. 35 OF 2016

Santosh Kumar Singh Jha & Anr. .. Petitioners
V/s
State of Maharashtra & Ors. .. Respondents

Ms. Deepa Chandnani i/b Mr. J.S. Chandnani for the petitioners.
Mr. P.G. Sawant, AGP for the State.
Mr. S.M. Kamble for respondent no.2.
Mr. Akshay Pawar i/b Mr. Anish Khandekar for respondent no.8.

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

DATE : 3rd NOVEMBER 2017

P.C.:

The petitioners are before this Court complaining illegal construction of godowns at Sheet No.171, Shanti Nagar, Behind Sai Baba Mandir, Ulhasnagar. According to them, without any consent/permission for construction of building at Plot Nos. 3(P) and 4 so also Sheet No.97, the illegal construction is taken up only with the active support of the officers concerned since the respondent Authorities have intentionally kept quiet without taking any action with regard to illegal construction.

2. We note from the affidavit of the State filed on behalf respondent nos.1, 2A and 2B, and particularly paragraphs 3 and 4

thereof, wherein they have stated that the Urban Development Authority has gone through the papers and, according to them, there seems to be irregularities while granting permission, i.e. by Assistant Director of Town Planning, Thane and Joint Director of Town Planning, Konkan Division.

3. So far as the affidavit of the respondent Corporation, which is in two paragraphs, they have stated that since all the papers are with the Urban Development and Town Planning Authority, they are not able to take any action.

4. The stand of the Town Planning and Urban Development Authority and the Corporation ultimately would assist and help the people, who are illegally carrying out the construction on the plot, by not taking action and throwing blame against each other. If files are required by the Authorities concerned to take action against the officers who have violated the procedure and the statute, they can always retain the photostat or certified copies of the record with them and initiate action. Under the guise of proposing to take action, they cannot call for the entire record and sit over the matter, in a way assisting the Corporation not to take any action, if the alleged illegal construction were to be true.

5. In that view of the matter, we direct respondent nos.1, 2A and 2B to return all the papers and files immediately to the

respondent Corporation after retaining photostat or certified copies so that the respondent Corporation can look into the matter and take immediate action. The entire files and record have to be sent to the respondent Corporation within two weeks from today. On receipt of the record, the respondent Corporation shall consider the matter, hear the petitioners and also the interested parties and decide the issue or the complaint within two months thereafter.

6. With these observations and directions, we dispose of the PIL.

(M.S. SONAK, J.)

CHIEF JUSTICE