

against the respondent No. 1-Sangli, Miraj and Kupwad Municipal Corporation to execute the sale deeds in respect of the shop premises occupied by the petitioners, in pursuance of its Resolution No. 194 dated 19th November 2005.

4. Twenty eight shops in Sant Dasram Kelkar municipal market were leased to the petitioners and some others in the year 2001. The rent of the shops was enhanced by the corporation from year to year. Since the petitioners claimed to be small time shop keepers and since they were not able to bear the burden of the enhanced rent, they offered to purchase the individual shops at the market rate. On the representation made by the Petitioners, the municipal corporation passed a resolution on 19th November 2005 deciding to sell the shops to the leaseholders at the market rate. It is the case of the petitioners after the State Government granted approval to the resolution of the municipal corporation on 15th January 2007, the corporation executed the sale deeds of the leased shops in favour of some of the leaseholders on 24th April 2009. It is the case of the petitioners that though the sale deed was executed in favour of some of the shop keepers on 24th April 2009, the municipal corporation did not execute the sale deed of the leased shops in favour of the petitioners. It is the case of the petitioner that the representation dated 28 September 2011 was not answered by the corporation. According to the petitioner, the petitioners continued to send reminders to the corporation

for the execution of the sale deeds of the leased shops in their favour, but without any success. The petitioner has therefore filed the instant petition on 21st December 2015 for a direction against the respondent-corporation to execute the sale deeds of the leased shops in favour of the petitioners at the market rate at which the shops were sold to the other leaseholders on 24th April 2009.

5. Shri. Ingale, learned counsel for the petitioners submitted that the action on the part of the municipal corporation in not executing the sale deeds of the shop in favour of the petitioners while executing the same only for some of the lease holders on 24th April 2009 is arbitrary and discriminatory. It is submitted that the petitioners had continuously made representations to the municipal corporation to sell the shops in their favour at the rate at which the shops were sold to the other lease holders on 24th April 2009. It is submitted that the corporation has now agreed to sell the shops to the petitioners but at the existing market rate. It is stated that the action on the part of the corporation of seeking a higher market rate for the shops is clearly discriminatory as the shops were sold to the other lease holders on 24th April 2009 at the market rate that was then in existence.

6. Shri. Prabhu, the learned counsel for the corporation opposed the prayer made in the petition. It is submitted that the first representation was made by the petitioners, as belatedly as

on 28th September 2011 though the sale deeds were executed in favour of the several lease holders on 24th April 2009. It is submitted that though the corporation was ready to sell the shops to the petitioners at the market rate along with the other leaseholders to whom the shops were sold on 24th April 2009 the petitioners had not agreed to purchase the same. It is submitted that in view of the provisions of Section 79(d) of the Maharashtra Municipal Corporation Act, it would not be permissible for the municipal corporation to sell the shops to the petitioners at the market rate of April 2009. The learned counsel sought for the dismissal of the writ petition.

7. Without adverting to the dispute whether the petitioners had indeed agreed on 24th April 2009 to purchase the shop blocks or not, it would be necessary to partly allow the writ petition and grant some relief to the petitioners. The representation of the petitioners and the other lease holders that the shops may be sold to them, was favourably considered by the municipal corporation and the resolution in that regard was passed by the corporation on 19th September 2005. The State Government approved the resolution dated 19th November 2005 by the order dated 15th January 2007. Some of the lease holders purchased the shops possessed by them and the sale deeds were executed in their favour on 24th April 2009. The petitioners must have been surely aware about the sale of the shops by the municipal corporation in favour of some of the

other leaseholders. It is the case of the corporation that the petitioners made the representation expressing their intention to purchase the shops only on 28th September 2011. According to the petitioners, they had made the representation immediately after the shops were sold to the other leaseholders on 24th April 2009. Be that as it may, the petitioners had not approached a Court of law for more than six years from the date on which the shops were sold to the other leaseholders on 24th April 2009. It is held by the Hon'ble Supreme Court that making of successive representations is inconsequential as the representations cannot stop limitation. If the representation of the petitioners was not favourably considered, the petitioners ought to have approached this Court within reasonable time from the date on which the first representation was made. If the representations of the petitioners were not answered, much less favourably, the petitioners ought to have filed the writ petition immediately in the year 2010. The petitioners have however failed to do so and have filed the writ petition on 21st December 2015.

8. In this background, even if we hold that the petitioners would also be entitled to purchase the shops like the other leaseholders that had purchased the same on 24th April 2009, in our view, the petitioners would not be entitled to purchase the same at the market value, as on 24th April 2009. The petitioners cannot be permitted to purchase the shops at the same rate at which the other lease holders has purchased the

same, more than eight years earlier. The respondent-corporation has agreed to sell the shops to the petitioners at today's market rate. However, since the petitioners had filed the writ petition on 21st December 2015, it would be necessary in the circumstances of the case and in the interest of justice to direct the corporation to consider the market rate of December 2015 for sale of the shops to the petitioners. The corporation should determine the market value through the town planner or valuer or in any other manner that is permissible in law. The ready reckoner may also be considered while determining the market value. The petitioners may be permitted to tender the submissions in respect of the market value of the shops, as on December 2015.

9. Hence, for the reasons aforesaid, the writ petition is partly allowed. The respondent No. 1- municipal corporation is directed to execute the sale deeds in respect of the shop blocks in favour of the petitioners at the market value, as of December 2015, within four months.

10. Rule is made absolute in the aforesaid terms, with no order as to costs.

[RIYAZ I. CHAGLA J.]

[SMT. VASANTI A NAIK, J.]