

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.C.C.J.**

WRIT PETITION NO.3023 OF 2016

M/s Spark Developers & Ajay Desai .. Petitioners
vs
State of Maharashtra & ors .. Respondents

with
CHAMBER SUMMONS NOS.82 & 84 OF 2016
in
WRIT PETITION NO.3023 OF 2016

M/s Spark Developers & Ajay Desai .. Applicants
vs
State of Maharashtra & ors .. Respondents

Mr.Rohan Mahadik for Petitioners/Applicants
Mr.U.S.Upadhyay Asst.Govt.Pleader for State
Ms.Pallavi Thakar for MCGM

***Coram : SMT.VASANTI A.NAIK AND
RIYAZ I CHAGLA, JJ***

Date : 2nd NOVEMBER 2017

P.C.

By this writ petition, the petitioner seeks a direction to the respondent nos.1 to 3 to implement the order of the Additional Commissioner of Police, Traffic, Mumbai dated 18.12.2010 and to ensure that there is no parking of vehicles on the stretch of the D.P.Road as mentioned in the said order. The petitioner has also sought a direction against the corporation- authorities and the State

Government to remove the encroachment on the side of the D.P.Road as specified in the prayer clauses.

The learned counsel for the petitioner states that the petitioner is a developer and is developing a SRA scheme on the D.P.Road which is facing the SRA building that is sought to be constructed. It is stated that there is a BEST sub-station and BEST depot near the D.P.Road with the result that there is severe traffic congestion on the said D.P.Road. It is stated that despite the directions of the Additional Commissioner of Police, Traffic, Mumbai dated 18.10.2010 prohibiting the parking of vehicles on the D.P.Road, Worli from its junction with Narayan Hardikar Marg to its junction with Veer Nariman Road throughout the day, there is illegal parking of vehicles on the said stretch of the road. It is stated that the directions of the Additional Commissioner of Police, Traffic, Mumbai are not implemented by the traffic police and the illegal parking of vehicles continues on the stretch of the D.P.Road. It is submitted that the corporation-authorities have not removed the encroachment on the side of the D.P.Road. It is stated that if the order of the Additional Commissioner of Police, Traffic, Mumbai is implemented and if the corporation-authorities take appropriate steps for the removal of the encroachment, then the traffic congestion on the road would be greatly reduced.

Mr.Upadhyay, the learned Assistant Government Pleader appearing on behalf of the State Government submits by referring to the affidavit-in-reply that the illegal taxi stand from the side of the D.P.Road is removed. It is stated that patrolling by the traffic police is done every two hours to ensure that vehicles are not parked on the concerned stretch of the D.P.Road. It is stated that all efforts are being taken to implement the order of the Additional Commissioner of Police, Tafffic, Mumbai dated 18.12.2010.

Ms.Thakar, the learned counsel for the corporation submits that on the side of the D.P.Road, there are in-eligible structures/encroachment. It is stated that 22 illegal/in-eligible structures were removed by the corporation-authorities by conducting a drive on 9.3.2017 but it appears that the structures have been again erected illegally on the same stretch of land. It is submitted that the corporation and its authorities would continuously take steps for the removal of encroachments. It is stated that police protection would be sought for as and when required.

On hearing the learned counsel for the parties, it appears that the State Government has removed the illegal taxi-stand and if there is illegal parking of vehicles on the stretch of the road with which we are concerned, the traffic police would ensure that patrolling is done every two hours for the removal of the vehicles

that are illegally parked. The State Government should time and again give police protection to the corporation-authorities and its staff whenever a drive for removal of encroachment is undertaken by the corporation and the corporation requires the help of the police authorities for the removal of the encroachment. We find from the affidavit-in-reply filed on behalf of the corporation that 22 illegal structures were removed on 9.3.2017. If the structures have again come up on the stretch of the land, it would be the duty of the corporation to time and again take steps for the removal of the illegal structures/encroachment.

Hence, in the circumstances of the case, we dispose of the writ petition with a direction to the State Government to ensure that the order of the Additional Commissioner of Police, Traffic Mumbai dated 18.12.2010 is implemented. We accept the statement made on behalf of the State Government that there would be police patrolling on the stretch of the road every two hours to ensure that vehicles are not illegally parked on the stretch of the road mentioned in the order dated 18.12.2010. Since it is the case of the corporation that illegal structures have again come up on the side of the D.P.Road, it would be necessary for the corporation to immediately take steps for the removal of the said structures. If at all the corporation staff requires police protection for the removal of illegal structures/encroachments, then the police protection should be

sought for. We direct the corporation to remove the illegal structures on the side of the road within three weeks. The State Government is directed to grant police protection to the corporation-authorities and its staff as and when the same is required by the corporation and is requested for. With these observations and directions, we dispose of the writ petition with no order as to costs.

With the disposal of the writ petition, the Chamber Summons also stands disposed of.

(RIYAZ I.CHAGLA J)

(SMT.VASANTI A.NAIK, J)