

IN THE HIGH COURT OF JURICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 498 OF 2017

Mr. Bandenawaaz Murtuza Nabiwale & Anr.

... Petitioners

V/s.

State of Maharashtra & Ors.

... Respondents

None for the Petitioners.

Mr. K.R. Trivedi, AGP for the Respondent No.1.

CORAM : A.S.OKA &

SMT. VIBHA KANKANWADI, JJ.

DATE : 07th JUNE, 2017

P.C.:

. In this petition under Article 226 of the Constitution of India lodged on 28th December, 2016, there are three substantive reliefs sought which are in terms of prayer clauses (a) to (c), which read thus:

“a) Writ of Mandamus or any other appropriate writ, direction and/or order be issued restraining the Respondents from preventing the Petitioner No.1 from carrying on street vending business.

b) Writ of Mandamus or any other appropriate writ, direction and/or order be issued against the Respondent No.2 AADESH/Order of the said EXHIBIT “D” dated 30th September 2016.

c) Writ of Mandamus or any other appropriate writ, direction and/or order be issued restraining the Respondents from evicting, destroying the goods and belongings, levying fines and arresting and prosecuting them and restraining them for interfering and intimidating them from carrying on and plying the trade as existing street vendor.”

2 None appears for the Petitioners. There is no basis set out in the petition for the apprehension expressed that the Respondents will prevent the first

Petitioner from carrying on street vending.

3 As far as prayer clause (b) is concerned, all that Exh.D which is the letter addressed by the Assistant Commissioner, R/C Ward of the Mumbai Municipal Corporation to the President of Azad Hawkers Union records is that an action will be taken against those vendors who are obstructing traffic on S.V. Road, Borivali West. Grant of prayer clause (b) will amount to preventing the Authority from taking action against those who are obstructing the traffic.

4 Prayer clause (c) cannot be granted for two reasons; firstly there is no basis for the apprehension that any action sought to be prevented by prayer clause (c) is likely to be taken against the Petitioners. Secondly, such a blanket relief cannot be granted as grant of such a relief prevent the concerned Authority from taking action in case of breaches committed by the Petitioners.

5 There is no reason to entertain the present Writ Petition. Accordingly, the same is rejected.

(SMT. VIBHA KANKANWADI, J.)

(A.S.OKA, J.)