

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CIVIL APPLICATION NO. 2781 OF 2018
IN
WRIT PETITION NO. 1415 OF 2018

ABDULGANI ALLABAKSH HANNURE DIED LRS
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...
Advocate for Applicants : Shri V.J.Dixit, Sr. Advocate
i/b Shri Ankush N. Nagargoje
AGP for Respondents 1 to 5 : Shri S.K.Tambe
Advocate for Respondent 6 : Shri P.R.Katneshwarkar
h/f Shri V.S.Undre
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CORAM : RAVINDRA V. GHUGE, J.
Dated: March 01, 2018
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PER COURT :-

1. The petition filed by these applicants has been dismissed by the judgment of this Court dated 22.2.2018.

2. After this Civil Application was filed, praying for some protection, keeping in view the reasons for which the petition has been dismissed owing to the dilapidated condition of the Shopping Complex Building, the following order was passed on 27.2.2018:-

"1. Learned counsel for the Municipal Council submits that the Shopping Complex is practically vacated by the

Shop Keepers to the extent of 70% to 80% of the Shops. They have also removed their belongings, goods, tin sheds as well as the metal shutters. Few Shopkeepers have shut down their Shops, but have not removed their belongings.

2. Learned senior advocate for the applicants submit that the applicants are willing to tender an affidavit which would contain the following contingencies :

(a) They will close down their Shops, since they intend to approach the Hon'ble Apex Court and will not operate their Shops until specific orders from the Hon'ble Apex Court.

(b) In the event the Shopping Complex building collapses, thereby leading to any loss of property or life of any person, these applicants would be individually liable for all civil and criminal consequences arising there from and they would be equally liable to pay compensation to those persons who have suffered a loss or harm of any nature whatsoever.

(c) These applicants would indemnify the Municipal Council against all claims of any nature, whatsoever, if any Shopping Complex building collapses and causes harm to any person or property.

3. It is stated that these affidavits would be tendered before the Court at 2.30 p.m. on 01/03/2018.

4. *Considering the above, stand over to 01/03/2018, at 2.30 p.m."*

3. Learned Sr. Advocate places on record seven affidavits of the applicants out of the 22 shop occupiers, declaring that their shops may not be demolished as they intend to approach the Honourable Apex Court. They assure that they will not open their shops until specific orders from the Honourable Apex Court permitting them to operate the shops. An undertaking is also given with regard to the loss of life and property in the eventuality of the building collapsing. These seven affidavits are taken on record and marked as Exhibit "X-1" to "X-7" respectively.

4. Learned counsel for the Municipal Council submits that the rest of the shop keepers are in fact, approaching the Municipal Council to rebuild the said shops after demolition and allow them to stake a claim on preferential basis to occupy the said shops on lease rent agreements. He further submits that the building is in a bad shape and is likely to endanger the general public at large, if it is kept standing. He opposes the request for maintaining *status quo* as on date, considering the statements made in the affidavits, for the fear of the collapsing of the two

storey building.

5. In the light of the above and since the seven applicants have filed their individual affidavits, setting forth their undertakings and praying for an opportunity to approach the Honourable Apex Court, *status quo* as existing today, with regard to these seven applicants, who have tendered their individual affidavits, shall be maintained, till 23.3.2018.

6. This application is disposed off.

(RAVINDRA V. GHUGE, J.)

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