

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.10004 OF 2018
(Sangamner Municipal Council Vs. Shaikh Nisar Shermohammad and
others)

Mr.V.S.Bedre, Advocate for the petitioner.

(CORAM : Ravindra V.Ghuge, J.)
DATE : 04/09/2018

PER COURT :

1. The petitioner/Municipal Council is aggrieved by the interlocutory order dated 05/05/2017 by which the Trial Court has clamped injunction against the Municipal Council in RCS No.536/2017 observing that they would not demolish the shops of the plaintiffs till the decision in the suit. The petitioner is also aggrieved by the judgment and order dated 27/04/2018 delivered by the Appellate Court in MCA No.16/2017 concluding that “if evicted without following due procedure of law, they would be put to hardships and irreparable losses”. On these observations, the appeal was dismissed.

2. Learned Advocate for the Municipal Council places on record a bunch of notices published in a largely circulated newspaper to indicate that it had followed the procedure and continues to follow

the procedure for seeking demolition of the illegal shops of the plaintiffs. The said notices were published prior to the passing of the order by the Trial Court. He cannot state whether these notices were brought to the knowledge of the Trial Court or the Appellate Court.

3. I find no reason to keep this petition pending in view of the following observations of the Appellate Court in paragraph No.12 :-

“[a] If evicted without following due procedure of law, they would be put to hardships and irreparable loss.

[b] Their possession in the given facts need to be protected unless a lawful procedure is adopted by the defendant to evict them.”

4. It is, therefore, apparent that the Appellate Court has recorded that the protection granted by the Trial Court would continue to protect the plaintiffs till the Municipal Council follows the due procedure to evict them.

5. In the above backdrop, this petition is disposed off as the Municipal Council is not precluded from following the due procedure. They are, therefore, at liberty to abide by the procedure laid down in law.

**Kranti
Hansraj
Shekatkar**

Digitally signed
by Kranti
Hansraj
Shekatkar
Date: 2018.09.06
17:45:20 +0530

(Ravindra V.Ghuge, J.)