

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2938 OF 2016

Balaji Dattatray Bhosale & Ors. Petitioners

Vs.

The State of Maharashtra & Ors. Respondents

Mr. Pratap Patil h/f Mr. Sachin Thorat for the Petitioners.

Mr. A.I. Patel, Addl. GP, for the Respondent-State.

CORAM: S.C. DHARMADHIKARI &
SMT. BHARATI H. DANGRE, JJ.

DATE : FEBRUARY 24, 2018

P.C:

1. By this petition under Article 226 of the Constitution of India, 36 petitioners before us have prayed for a direction that an order passed by this Court dated 15-12-2014 in Writ Petition No.7397 of 2014 be implemented and all directions strictly in terms thereof be issued. Those directions do not enable issuance of any communication, particularly seeking to demolish the structures of the petitioners.

2. On such a petition and in terms of an additional

affidavit filed on 24-4-2017, a Division Bench of this Court passed the following order:-

"1. The petitioners are encroachers upon a government land. Only if the petitioners give unconditional undertaking to this Court to remove the encroachments and deliver possession of the encroached land to the respondent no.3, in the event of rejection of their application for regularization, the prayer made by the petitioners directing the concerned authority to consider their applications for regularization, can be considered. To enable the petitioners to do so, we grant time of one month to the petitioners.

2. Place the petition on 15th June, 2017 under the caption of "fresh admission".

3. Ad-interim relief granted by this Court on 7th March, 2016 will continue to operate till the next date. Additional affidavit of the petitioners is taken on record."

3. We enquired from Mr. Patil as to whether this order stands complied with and he fairly stated that barring the following ten petitioners, the others have not filed any undertakings:-

"1. Mr. Balaji Dattatray Bhosale

2. Mr. Chandrakant Sadashiv Biskite

3. Mr. Siddheshwar Bhagwat Bhosale

4. Mr. Balasaheb Shyamrao Bhosale

5. Smt. Janabai Hanmant Biskite
6. Mr. Maruti Gyanba Yadav
7. Mr. Dhanaji Gyanba Yadav
8. Mr. Tanaji Gyanba Yadav
9. Mr. Vishnu Laxman Bhosle
10. Mr. Bhima Babu Chandanwale"

4. If the petitioners are seeking an equitable and discretionary relief, particularly of regularisation of their structures which are not in accordance with the approval/permissions contemplated by law, then, if they do not comply with the order and direction of this Court, particularly as recorded above, they are not entitled to any relief. Consequently, except those petitioners who have filed the undertakings in terms of the above reproduced order of this Court, only their applications for regularisation be considered. These applications be considered and disposed of as expeditiously as possible and within a period of twelve weeks from the date of receipt of a copy of this order. Till the

application for regularisation are under consideration, the structures of these ten petitioners only shall not be demolished.

5. Since the rest of the petitioners have not complied with the order and direction of this Court, they forfeit their right to continue in possession or protection of their structures. The demolition notices and all action in pursuance thereof can be taken in respect of the structures of these petitioners.

6. The writ petition is disposed of in the above terms with no order as to costs.

(SMT. BHARATI H. DANGRE, J.)

(S.C. DHARMADHIKARI, J.)