

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 7697 OF 2018

Meghsham Kanoba Samant ... Petitioner
Vs.
Vengurla Municipal Council, through
its Chief Officer & Ors. ... Respondents

WITH
WRIT PETITION No. 7698 OF 2018

Shankar Vishvanath Satardekar ... Petitioner
Vs.
Vengurla Municipal Council, through
its Chief Officer & Ors. ... Respondents

WITH
WRIT PETITION No. 7703 OF 2018

Kishor Madhukar Parab ... Petitioner
Vs.
Vengurla Municipal Council, through
its Chief Officer & Ors. ... Respondents

WITH
WRIT PETITION No. 7704 OF 2018

Sadananda Arjun Nawar ... Petitioner
Vs.
Vengurla Municipal Council, through
its Chief Officer & Ors. ... Respondents

WITH
WRIT PETITION No. 7705 OF 2018

Sunanda Dinkar Goankar, through
Gajanan Dinkar Goankar ... Petitioner
Vs.
Vengurla Municipal Council, through
its Chief Officer & Ors. ... Respondents

**WITH
WRIT PETITION No. 7706 OF 2018**

Prakash Eknath Nerulkar	... Petitioner
Vs.	
Vengurla Municipal Council, through its Chief Officer & Ors.	... Respondents

**WITH
WRIT PETITION No. 7714 OF 2018**

Sadananda Laxman Dipnaik	... Petitioner
Vs.	
Vengurla Municipal Council, through its Chief Officer & Ors.	... Respondents

**WITH
WRIT PETITION No. 7715 OF 2018**

Nafiasa Daud Sayyad Kasim	... Petitioner
Vs.	
Vengurla Municipal Council, through its Chief Officer & Ors.	... Respondents

**WITH
WRIT PETITION No. 7716 OF 2018**

Narayan Jagannath Shetye, through P.A. H. Sham Narayan Shetye	... Petitioner
Vs.	
Vengurla Municipal Council, through its Chief Officer & Ors.	... Respondents

**WITH
WRIT PETITION No. 7741 OF 2018**

Sanjay Mahadev Tanawade	... Petitioner
Vs.	
Vengurla Municipal Council, through its Chief Officer & Ors.	... Respondents

Mr. Uday Warunjikar, Advocate for the petitioners.
Mr. Drupad Sopan Patil, Advocate for the respondent No. 1.
Mr. Vaibhav Sabale, Chief Officer, Vengurla Municipal Council
present in the Court.

CORAM: MRS.MRIDULA BHATKAR, J.
DATE: 25th July, 2018.

P.C.:

The petitioners are the plaintiffs, who have filed the suits before the learned Civil Judge Junior Division, Vengurla for declaration and injunction against Vengurla Municipal Council, who has issued notice on 6th August, 2016 directing the petitioners/plaintiffs to vacate their respective shops and handover the possession to the Council. The said building belongs to Municipal Council. In the said building, the petitioners/plaintiffs are accommodated and they are conducting their respective business for more than 50 years.

2. During the pendency of the suit, there were two notices dated 19th March, 2018 and 27th March, 2018 issued by the Municipal Council directing the petitioners to handover the possession of the suit shops within 15 days from those notices. The petitioners moved interim applications before the trial Court, which was contested by the respondent nos. 1 and 2/defendant nos. 1 and 2. The learned Civil Judge Junior Division, Vengurla directed the

respondents/defendants not to take the possession of the suit shops till the decision of the respective suits, however, it was further directed that the Municipal Council may follow due process of law to take possession. The said order dated 6th April, 2018 of the trial Court was challenged by respondent nos. 1 and 2 before the learned District Judge, Sindhudurg at Oros by filing Miscellaneous Civil Appeals. The said Appeals were allowed. The learned District Judge by order dated 5th July, 2018 set aside the orders passed by the trial Judge and directed the trial Court to hear and dispose of the Applications at Exhibit 5 within 30 days from the receipt of the order. The trial Court did not extend the stay of hearing of Exhibit 5 which was to be heard within 30 days from the receipt of the order of the Appellate Court but it suspended its own judgment and order for a period of 10 days to enable the petitioners/plaintiffs to take appropriate steps in the matter. Thus, the trial Court is expected to hear and decide Exhibit 5 Applications on or before 4th October, 2018. These Writ Petitions are filed to obtain the order of extension of stay till hearing of Application Exhibit 5 by the trial Court.

3. There is another litigation between the parties under Public Premises Act. It is pointed out by the learned counsel for the

respondents/Municipal Council that the Competent Authority, i.e., Deputy Collector has passed the order of eviction against all these petitioners/plaintiffs on 26th June, 2018 and has granted one month from the date of the service of notice on these petitioners/plaintiffs to vacate the premises. The said time gets over tomorrow, i.e., 26th July, 2018. The said order was challenged by the petitioners/plaintiffs before the Principal District Judge by filing Appeals and the said Appeals are also heard and the matter is in fact fixed for pronouncement of the judgment and order today.

4. In the course of hearing, it was informed by the learned counsel for the Municipal Council that the Municipal Council has provided temporary alternate accommodation to these 10 petitioners. On this information, it was suggested to the learned counsel for the petitioners to obtain necessary instructions from the petitioners as to whether the petitioners are ready to shift in those temporary alternate premises in short time. After taking instructions from the petitioners, the learned counsel has submitted that the petitioners are ready to shift to alternate temporary premises, which is shown and provided by the Municipal Council. However, the said premises is not in a good condition and requires certain repairs especially, stoppage of

leakage, seepage and painting. The learned counsel for the petitioners sought time of 40 to 60 days to shift. He submitted that the petitioners are ready to shift to alternate temporary premises after Ganpati festival, which is a good season for the petitioners for their business.

5. On instructions given by the Chief Officer, who is present in the Court, the learned counsel for the Municipal Council has submitted that the repairs of the temporary alternate shops and premises can be done at war footing from today itself and it will be carried out on or before 30th July, 2018. They are ready to cover up the gaps, stop leakage and seepage and also paint the premises. It is informed by the learned counsel for the petitioners that the petitioners need time to make the premises usable for business by having furnitures, shelves and other necessary things.

6. In view of this submissions, I pass following order:

- (i) The Municipal Council shall stop the leakage, seepage and paint the alternate temporary premises including the entrance and footway in the building with good quality work;

- (ii) The Municipal Council will handover the possession of temporary alternate premises by drawing lots, to the respective petitioners on 31st July, 2018 at 9.30 a.m.;
- (iii) The petitioners shall carry out necessary work of furniture and they shall vacate their respective existing old premises on or before 15th August, 2018;
- (iv) The learned Principal District Judge is requested not to pronounce the judgment till 31st July, 2018, as the Municipal Council is directed to submit the report to the Principal District Judge regarding compliance of the repair work and allotment of shops on 31st July, 2018 at 12 p.m.

7. Writ Petitions are disposed of.

(MRIDULA BHATKAR, J.)