

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.14195 OF 2018

M/s. Sarabhai & Company through Authorized
Representative Arun Ashok Waghmare ... Petitioners
Vs.
Municipal Corporation of Greater Mumbai & others ... Respondents

Mr. Vinduprakash Pandey a/w. Mr. Pramodkumar Pandya and Mr. Vivek
Tripathi i/b. Mr. P. S. Singh for Petitioners.
Mr. Santosh Parad for Respondents-B.M.C.

CORAM : R. G. KETKAR, J.
DATE : DECEMBER 22, 2018

P.C. :

Heard Mr. Pandey, learned Counsel for the petitioners and
Mr.Parad, learned Counsel for the respondents - B.M.C. at length.

2. This Petition takes exception to the-
 - (i) order dated 01.07.2017 passed by the respondent No.4, Deputy Municipal Commissioner (Special);
 - (ii) order dated 14.06.2018 passed by the respondent No.3, Deputy Municipal Commissioner (A&C) and Deputy Municipal Commissioner (Zone-III); and
 - (iii) order dated 27.11.2018 passed by the respondent No.2, Additional Municipal Commissioner (Project) and Additional Municipal Commissioner (Western Suburbs).

3. By these orders, the petitioners have been directed to remove the hoarding along with the structure bearing permit No.761100170 within 7 days, failing which, the same will be removed by the Assistant Commissioner, G/North Ward at the risk, cost and consequences of the petitioners. Rule. Mr. Parad waives service for the respondents. In view of the narrow controversy raised in this Petition and at the request and

by consent of the parties, Rule is made returnable forthwith and the Petition is taken up for final hearing.

4. Mr. Pandey submitted that the orders dated 01.07.2017 and 14.06.2018 record that the petitioners did not submit the NOC from the landowner. The order dated 27.11.2018 does not record any reason. He, therefore, submitted that the impugned orders may be set aside.

5. On the other hand, Mr. Parad supported the impugned orders. He submitted that by notice dated 17.10.2016, petitioners were directed to remove the hoarding as he did not submit the NOC from the landowner. On 24.10.2016, petitioners gave reply and submitted that as soon as they get NOC, the same will be furnished. As the petitioners did not furnish NOC from the landowner, by order dated 01.07.2017, Deputy Municipal Commissioner (Special) rejected the application for renewal of the permit. By order dated 14.06.2018, the appeal preferred by the petitioners was dismissed on the ground that petitioners did not submit the NOC from the landowner. Aggrieved by these decisions, petitioners preferred appeal, which was dismissed as no permission was granted on vacant land tenancy for advertisement hoarding and the application for renewal of permit was rejected.

6. Mr. Parad submitted that by a communication dated 27.03.2018, Administrative Officer (Estate), G/North informed the petitioners that their request for issuing NOC cannot be acceded to. He, therefore, submitted that no case is made out for interfering with the impugned order.

7. As mentioned earlier, by orders dated 01.07.2017 and 14.06.2018, the application for renewal made by the petitioners was rejected on the

ground that petitioners did not submit NOC from the landowner. The order dated 27.11.2018 does not record any finding. The said order only records the submissions of the parties. In view thereof, the order dated 27.11.2018 passed by the respondent No.2 is set aside and the appeal of the petitioners is restored before the respondent No.2. Mr. Pandey assures that representative of the petitioners will appear before the respondent No.2 on 26.12.2018 and for that purpose, no fresh notice be issued to them. Respondent No.2 will decide the appeal within one week from 26.12.2018. All contentions in that regard are expressly kept open. During the pendency of the appeal before the second respondent, no coercive steps shall be taken against the petitioner in pursuance of the impugned order. Rule is made absolute accordingly with no order as to costs.

(R. G. KETKAR, J.)

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