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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 2829 OF 2016**

Rajkumar Harnam Dass Narang ...Petitioner
Versus
The Municipal Corporation of Greater Mumbai ...Respondents
& Anr

**WITH
CHAMBER SUMMONS NO. 258 OF 2017
IN
WRIT PETITION NO. 2829 OF 2016**

Ashfaq Fakirmohammed Patel & Anr ...Applicants
In the matter between
Rajkumar Harnam Dass Narang ...Petitioner
Versus
The Municipal Corporation of Greater Mumbai ...Respondents
& Anr

Mr Shoaib I Memon, *for the Petitioner.*
Rajkumar Harnam Dass Narang, *Petitioner, present.*
Mr Anil Sakhare, *Senior Advocate, with Ashwin Sakolkar & Pooja Yadao, for Respondent No. 1-MCGM.*
Mr Jitendra V Gartolla, *Senior Inspector (Licence Department), H-Ward, is present.*
Mr US Upadhyay, *AGP, for Respondent No. 2-State.*
Mr Jayesh G Gawde, *for the Applicant in CHS/258/17.*

CORAM: G.S. PATEL, J
DATED: 15th February 2018

PC:-

1. The dispute is in regard to the two hoardings or billboards situated at Plot Nos. 9 and 10 (7A/2) City Survey No. 4, SV Road, Bandra (West), Mumbai 400 050. One hoarding is of 40 ft x 20 ft against permit No. 761102080. The second on the same plot is 90 ft x 20 ft against permit No. 761102090.

2. According to the Petitioner, he erected these hoardings in 1973 with due permission. He spent a considerable amount on them. There is a dispute about the property on which the hoardings are erected and this is the subject matter of Suit No. 845 of 1976. By an order of 12th August 2005, a Court Receiver has been appointed and this Court has said that the possession of the Petitioner in respect of these hoardings cannot be disturbed by any party.

3. To cut a long story short, in view of various orders passed in Writ Petition No. 1132 of 2007, treated as public interest litigation regarding hoardings in general, the Petitioner was issued notices saying that his hoardings were in breach of guidelines and were non-conforming. Hearings before the Authorities of the Municipal Corporation of Greater Mumbai (“MCGM”) have been going on since 2005-2006. Ultimately after several show-cause notices and replies to these, the Petitioner received the impugned orders dated 7th February 2014 Exhibit “O” and “P” to the Petition, as also a final order dated 29th June 2016 in respect of the two hoardings essentially refusing to renew the Petitioner’s license and ordering

removal of both hoardings. The primary reason for this was that the hoardings were in the Coastal Regulation Zone. However, it is now a matter of record that the necessary permissions have been obtained.

4. As it happens, the larger of the two hoardings is of non-conforming size, 90 ft x 20 ft. The existing policy of the MCGM permits hoardings of only 40 ft x 40 ft or of lesser dimensions on each side.

5. One of the grievance the Petitioner makes with some emphasis through Mr Memon is that the Petitioner has been made to pay the license fees till the end of 2015 but his right to use the hoardings has been curtailed from as far back as 7th February 2014. In other words, the Petitioner has paid license fees for nearly 18 months but not permitted to use the hoardings.

6. Till recently the hoardings were blank. It seems that on 6th February 2018 the Petitioner was among several persons who received a notice from the Municipal Corporation of Greater Mumbai, ostensibly in compliance with some policy, directing the Petitioner to put up on these hoardings what is euphemistically called a 'civic message'. That expression does violence to the language. What the Petitioner was asked to put up by the MCGM was nothing but a political poster featuring the Hon'ble Chief Minister and the Hon'ble Prime Minister in advance of the Magnetic Maharashtra Convergence 2018 to be held at Bandra Kurla Complex this coming weekend until 20th February 2018.

7. On enquiries with the MCGM it turns out that the officers of the MCGM merely acted on an email from the Maharashtra Industrial Development Corporation's "Advertisement Section" asking the MCGM to ensure that all hoardings between the Chhatrapati Shivaji International Airport and Nariman Point be kept available for advertising or displaying hoardings relating to this 'Convergence' conclave.

8. At my request, Mr Sakhare appears for the MCGM. He points out that there is a policy allowing the hoardings to be used without payment of fees for display of a civic message for 15 days in a year.

9. This is a contradiction. That policy cannot possibly extend to requiring the use of hoardings that the MCGM itself says are non-conforming and without a license. That policy can only apply in respect of a conforming, duly licensed hoarding. The MCGM cannot have it both ways. It cannot say that a citizen may not use his hoarding for legitimate commercial purposes because it violates some requirement, rule, specification or guideline, and at the same time say, for what are obviously political purposes, that that very non-conforming hoarding should be used, despite being unlicensed and non-conforming, because the State Government through one of its entities says so. This would mean either (a) the hoarding is *not* illegal and the withholding of the license is unlawful; or (b) the State Government and the MCGM are together permitting — actually perpetrating — an illegality.

10. No authority at any level at the Centre and the State can insist on the use of an unlicensed or illegal hoarding for any purpose whatsoever. If a person may not use it for a legitimate commercial purpose, he or she cannot be forced to serve some State Government or political end.

11. Therefore, in all future matters, the MCGM is not entitled to demand the display of any messages, civic or otherwise, on hoardings other than those that have a valid, existing license.

12. I trust my meaning is plain. Any violation of this order under any circumstances will immediately invite judicial action, irrespective of who commands such illicit displays for whom and for what purpose.

13. I would have directed the removal of the displays on these two hoardings, and directed the Petitioner to keep both blank except for a message that they were so kept blank under this order of this Court. However, on instructions from the Petitioner, who is present in Court, Mr Memon states that the hoardings having been already put up they may remain till 20th February 2018.

14. Mr Sakhare on instructions says that the only two issues are the size of the hoardings and the question of NOC from the plot owner. As regards the size, since Mr Memon has instructions to state that the Petitioner will use the 40 ft x 40 ft size and that it will take two months' time to modify both hoardings, it is agreed that the necessary modifications will be made on or before 20th April

2018 and by that date, subject only to verifying the dimensions of the hoardings, the MCGM will renew the Petitioner's license for both hoardings. Any question of set off or adjustment of the license fee already paid, as noted above, for a period during which the Petitioner was not given a license or permission for use, will be addressed independently thereafter on the Petitioner making an appropriate application for which he is granted liberty.

15. As regards the rights of the owner, it is clarified that the renewal of the license will not be read in prejudice to the owners' rights and contentions. All those contentions are specifically kept open. Any civil proceedings filed by the landlord or site owner will continue unaffected by the present order.

16. The Court Receiver appointed, as mentioned above, will permit the modification of the hoardings as a result of this order and will act on an authenticated copy of this order.

17. The Writ Petition is disposed of in these terms. No costs.

18. The Chamber Summons is infructuous and is disposed of.

(G. S. PATEL, J)