

pmw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

CONTEMPT PETITION NO.12 OF 2018
IN
WRIT PETITION NO.2622 OF 2016

Tulsidas Damaji Koli ... Petitioner
Vs.
Ajoy Mehta, Municipal Commissioner,
Municipal Corporation of Gr. Bombay and Ors. ... Respondents

Mr. Pradeep Havnur a/w Ms. Radhika Samant for the Petitioner.
Mr. A.K. Saxena, Ms. Pratima Singh and Ms. Vandana Mahadik for the
Respondent - BMC.

CORAM : A.S.OKA AND RIYAZ I. CHAGLA, JJ.

DATE : 30th July 2018.

P.C. :

1 The breach alleged is of the Judgment and Order dated 17th July 2017. We have perused the affidavit-in-reply of Shri Parag Masurkar working as Assistant Municipal Commissioner (Estates). A copy of Supplementary Annexure – II issued by the Mumbai Municipal Corporation on 26th October 2017 has been annexed which shows that the name of the petitioner has been included in the Annexure – II by issuing the said supplementary Annexure – II.

2 The submission of the learned counsel appearing for the petitioner is that in paragraph 10 of the judgment and order dated 17th July 2017 a finding has been already recorded by this Court that the procedure of transfer of the subject room in the name of the petitioner was completed prior to 30th December 1999 and only a formal entry of the name of the petitioner in the municipal records was made after 30th December 1999. The submission of the learned counsel appearing for the

petitioner is that in view of what is stated in the remarks column of the Supplementary Annexure, the Municipal Corporation is proceeding on the footing that the transfer of the room in the name of the petitioner has been made on 9th June 2000 when registered Tenancy Agreement has been executed. His apprehension is that while granting benefits, the Municipal Corporation will proceed on the footing that the entry of the name of the petitioner as a tenant has been made on 9th June 2000.

3 We have considered the submissions. Paragraphs 10 and 11 of the judgment and order dated 17th July 2017 read thus :-

“10 Thus, it appears from the original documents in the file that the entire procedure for transfer of Room No.4 in the name of the petitioner was completed prior to 30th December, 1999 and all amounts demanded by the Municipal Corporation were paid by the petitioner. As stated earlier, the letter dated 7th May, 1999 addressed to the petitioner records sanction for the transfer of tenancy in the name of the petitioner subject to compliance of terms and conditions mentioned therein. It appears that a formal entry of the name of the petitioner in the Municipal records was made after 30th December, 1999.

11 Therefore, in our considered view, the name of the petitioner ought to have been included against Sr. 138 in Annexure - II in respect of the Room No.4 of Building No.17.”

4 The categorical finding of the Court is that the entire procedure for transfer of the room no.4 in the name of the petitioner was completed prior to 30th December 1999 and only a formal entry remained to be made. It is further held that the name of the petitioner ought to have been included in Annexure – II which was issued on 31st December

1999. The said judgment and order of this Court has not been challenged by the Municipal Corporation. The finding of the Court is very clear which binds the Municipal Corporation. The finding is that the name of the petitioner ought to have been included in Annexure – II issued on 30th December 1999. The effect of Supplementary Annexure – II is that name of the petitioner shall be deemed to have been included in the Annexure – II issued on 30th December 1999. Therefore, all concerned will have to proceed on the footing that the name of the petitioner was already included on 30th December 1999 in the Annexure – II.

5 Therefore, now we see no reason to entertain this contempt petition. Subject to what is observed above, the contempt petition is disposed of.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)