

pmw

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORIGINAL SIDE

WRIT PETITION NO. 2936 OF 2017

Afzal Haji Mohammed Virani

... Petitioner

Vs.

The State of Maharashtra and Ors.

... Respondents

Mr. Amar Mishra i/b. A.M. Saraogi for the Petitioner.

Mr. S.B. Gore, AGP for the Respondent No.1.

Ms. K.H. Mastakar for the Respondent – BMC.

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

DATE : 6<sup>th</sup> AUGUST 2018.

P.C. :

Not on board. Taken on board.

1 Even going by the stand taken by the petitioner, it is only in the light of the ad-interim order passed by the City Civil Court in the suit filed by the fourth respondent that the Municipal Corporation is unable to take action. Prayer clause (a) seeks a writ of mandamus against the Municipal Corporation to take action. Prayer clause (b) reads thus :-

“(b) that this Hon'ble Court be pleased to issue an appropriate writ, order and direction directing the Respondent No.2 to pursue the suit filed by the Respondent No.4 pending before City Civil Court Bombay and make their submission to vacate the ad-interim order on such terms as this Hon'ble Court may deem fit and proper.”

2 In writ jurisdiction under Article 226 of the Constitution of India, it is not possible to issue a direction as sought in prayer clause (b). So long as the ad-interim order of the City Civil Court is in force, prayer

clause (a) cannot be granted. Hence, at this stage, there is no reason to entertain this petition under article 226 of the Constitution of India.

(RIYAZ I. CHAGLA, J.)

(A.S.OKA, J.)