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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION***

WRIT PETITION (LODGING) NO.4071 OF 2018

Prabhu Yesu Janmotsav

...Petitioner

Versus

The Municipal Corporation of Greater Mumbai and Ors. ...Respondents

Mr.Mihir Desai, Senior Counsel a/w Mr.Ankur Shah i/b Syed Ali Kazmi,
for the Petitioner.

Mr.Yashodeep Deshmukh a/w Ms.K.H.Mastakar, for the M.C.G.M.

Ms.Geeta Shastri, A.G.P. for the Respondent – State.

Mr.Soli Cooper, Senior Advocate a/w Ms.Meghna Rao, Mr.Ethel Pereira,
J.A.Patnigere, for the Intervener (Jesus for all Nations Church)

Mr.Mayur Khandeparkar, for the Intervener.

Mr.Rajan Jaykar, Member/Representative of Respondent No.4 is present in
person.

***CORAM : RANJIT MORE &
REVATI MOHITE DERE, JJ.***

DATE : 11th DECEMBER, 2018

P.C. :

1. Heard.
2. By order dated 21st June, 2018, passed in Writ Petition Nos.2197 of 1998 and 1963 of 2000, the Division Bench of this Court (Coram:A.S.Oka and P.N.Deshmukh, JJ.) gave several interim directions, in paragraph 23 of the said order.
3. In the present Petition, we are concerned with the interim directions at serial no.(i) of paragraph 23 of the said order, which reads as follows:-

“23(i) Three functions which are covered by the guidelines shall be hereafter conducted only on the designated area of 300 X 150 sq.ft. area as shown in the plan annexed as Exhibits-B and C to the first supplementary report of the Monitoring Committee dated 15th February, 2018. No deviation shall be permitted without express permission of this Court.”
4. The Petitioner is a public charitable trust, which has been organising the Christmas Music Festival, since 1965. It is the case of the Petitioner that this is India's biggest Christmas Music Festival. It is also the

case of the Petitioner that this festival is performed at Girgaum Chowpatty for over five decades and that more than 25,000 people from the Christian community attend the said festival every year. It is the case of the Petitioner that in the year 2016, an area admeasuring about 18,000 sq. meters was allotted for the purpose of this festival and in the year 2017, an area of about 25,000 sq. meters was allotted for this festival.

5. The interim directions, one of which is referred above came to be issued vide order dated 21st June, 2018, passed in Writ Petition Nos.2197 of 1998 and 1963 of 2000 and under the said directions, the area within which functions are to be performed is reduced to 4180.63 sq. meters. It is the case of the Petitioner that neither the Petitioner nor any of the Interveners were heard when the said interim directions were passed. It is submitted that had they been heard, they would have pointed out to the Court, that the area of 4180.63 sq. meters would be insufficient for holding the Christmas Music Festival, which is a one day event. Learned Senior Counsel for the Petitioner submits that the area, which was granted in the year 2016 atleast be granted this year. It was further submitted that they became aware of the said interim directions only when they applied for

permission this year and that it is not possible to change the venue at the last minute.

6. Learned Senior Counsel for the Petitioner submits that under the interim directions referred above, larger area can be granted under the orders of this Court. He further submits that he is making the request only for this year as an exception and that before the next year Christmas Music Festival, the Petitioner will approach for modification of the interim directions or can make alternate arrangements.

7. Learned Counsel for the Interveners supported the Petitioner's demand for a bigger area for the Christmas Music Festival, than that permitted under the interim order.

8. We have also heard Mr.Jaykar and Mr.Dada, learned counsel for the Monitoring Committee, Ms.Shastri, learned A.G.P and the learned counsel for the Corporation. They submitted that under the said interim directions, the Petitioner is bound to hold the Christmas Music Festival, within the designated area. They further submitted that the object of the

interim directions is not to obstruct the view of the sea to the public at large from the roadside. They also express their apprehension that if an exception is made in the case of the Petitioner, then, it will become a precedent and other communities will also come before this Court for seeking permission to hold the functions/festivals in a larger area. They, however, state that they will submit to the orders of this Court.

9. We have heard the rival submissions carefully. It is undisputed that the Petitioner is holding the Christmas Music Festival for more than 50 years at Chowpatty. The claim of the Petitioner and the Interveners that approximately 25,000 people assemble for the said festival is also not specifically denied. This Court can also take note that in this festival, children and elderly people are also involved. Admittedly, the Petitioner was not heard when the interim directions were passed. The other 2 festivals i.e Ram Leela and Krishna Leela are spread over a few days, unlike the Christmas Music Festival, which is for one day. The order was passed in June, 2018 and the Petitioner learnt of the same only when they applied for permission to conduct the Christmas Music Festival. If the Petitioner is required to hold the Christmas Music Festival in the

designated area, then the possibility of a stampede cannot be ruled out.

10. In the light of the above and especially in view of the various statements recorded hereinabove, we dispose of the above Petition, by passing following order:-

- a) The interim directions at serial no.(i) of paragraph 23 of the order dated 21st June, 2018, passed in Writ Petition Nos.2197 of 1998 and 1963 of 2000, so far as, it relates to the Petitioner, is relaxed only for this year;
- b) The Petitioner is permitted to hold Christmas Music Festival on the area of 15,000 sq. meters. It is made clear that this order is passed in the peculiar facts and circumstances of this case and the same should not be treated as a precedent;
- c) The appropriate Authority to demarcate the area of 15,000 sq. meters.
- d) The above permission is granted, subject to following directions:-
 - i) The Petitioner shall ensure that no commercial activities are conducted at the venue;
 - ii) The Petitioner shall take all necessary permissions from the local authorities;
 - iii) The Petitioner shall comply with the various Environmental Rules including the Noise Pollution Rules.

11. The Petition is accordingly disposed of.

REVATI MOHITE DERE, J.

RANJIT MORE, J.