

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3200 OF 2019

Ikhlaq Ismail Modak

... Petitioner

Versus

The State of Maharashtra and others

... Respondents

.....

Ms. Manisha Mundhe alongwith Mr. Abhijeet Naik and Mr. Dharmesh Panchal instructed by Mr. Rajesh Khobragade for the Petitioner.

Mr. N.R. Bubna for Respondent Nos.2 to 6.

Ms. Saroj Naik for Respondent No.10.

Ms. S.D. Vyas, B Panel Counsel for Respondent-State.

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CORAM : S.J. KATHAWALLA AND
B.P. COLABAWALLA, JJ.

DATED : DECEMBER 10, 2019.

P.C. :-

1. By the above Writ Petition, the Petitioner seeks the following reliefs :

“(b) That this Hon’ble High Court be pleased to issue the writ of mandamus or any other writ in the nature of mandamus and order, direction and direct to the Respondent No.2 to 6 to implement, execute the order dated 13/04/2012, passed by the Assistant Commissioner, BMMC.

(c) That this Hon’ble High Court be pleased to issue the writ of mandamus or any other writ in the nature of mandamus and order, direction and direct to the Respondent No.1 to 6 to take action and/or appropriate decision as representation dated 10/10/2018 and reminder dated 27/11/2018 made by the Petitioner or particularly the Exhibit – J and K.”

2. The Advocate for the Corporation submits that they are unable to take action in view of the order dated 4th October, 2016 passed by the District Judge-5 and Additional Sessions Judge, Thane directing the Corporation not to take any coercive action while setting aside the order of the Trial Judge dated 27th July, 2016 in R.C.S. Nos.1552 of 2012 and 1563 of 2012 remanding the matter back to the Trial Judge. However, we have noted from the order dated 4th October, 2016 that no coercive action is directed to be taken only upto 15th October, 2016. If the order of the Trial Court is not continued for any reason, the Corporation shall proceed to take action. The above Writ Petition is accordingly disposed off.

(B.P. COLABAWALLA, J.)

(S.J. KATHAWALLA, J.)