

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO.69 OF 2009

Rajeshwari Co-operative Housing
Society Ltd.

.... Petitioner

Vs.

Thane Municipal Corporation & Others

.... Respondents

None present for the Petitioner.

Mr. N.R. Bubna for Respondent Nos.1 & 2.

Mr. Rohit Joshi i/by Ms Gauri Godse for
Respondent No.4.

CORAM: S.C. DHARMADHIKARI &
R.I. CHAGLA, JJ.

DATE : NOVEMBER 18, 2019

P.C:

1. From the records it appears that this petition, though styled as a PIL, seeks to quash and set aside a Development Permission.

2. The Development Permission concerns a property which the petitioner-society claims to be owned by respondent No.3. The respondent No.3's property is adjacent to the land on which the building of the petitioner is standing. The respondent No.3-society, through its Architect, submitted a plan for sanction and it has allegedly commenced construction work upon an existing/old drain of 600 mm dimension resulting in

choking of the same. Therefore, rain water is not passing through it.

3. Such a complaint as made is really concerning the right of the petitioner-society to insist that the surroundings, which are unhygienic and unclean be removed and the members of the petitioner-society should not suffer on account of lack of hygiene. That will cause the drain on which the alleged construction is coming up to be choked.

4. Both respondent Nos.1 and 2, namely, the Municipal Corporation and its official deny this position and say that all care and precaution has been taken to leave the drain open and no construction has been allowed on the drain.

5. We do not think that a rejoinder of the petitioner will carry its case any further for if the petitioner is aggrieved by any construction activity and blocking of the drain, it can always move a Competent Civil Court for appropriate direction. The PIL was never its remedy. It is disposed of.

(R.I. CHAGLA, J.)

(S.C. DHARMADHIKARI, J.)