

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2454 OF 2019

Shri. Harmeetsingh Kohali	}	Petitioner
versus		
Nashik Municipal Corporation	}	
and Ors.	}	Respondents

Mr.Sachin Gite for the petitioner.

Mr.M.L.Patil for respondent nos. 1 and 2.

Ms.A.A.Purav-AGP for respondent no.3.

CORAM :- S. C. DHARMADHIKARI &
B. P. COLABAWALLA, JJ.

DATE :- APRIL 11, 2019

P.C. :-

1. Heard both sides. Perused the writ petition and its annexures. With the consent of both sides, the writ petition is disposed of by this order.

2. Presently, we do not find a coercive measure, much less a step being initiated by the Nashik Municipal Corporation against the petitioner. The petitioner has been called upon to show cause as to why the user of a basement for commercial purpose should not be discontinued. Further, such user is commenced without obtaining the occupation certificate. On both counts, the

petitioner will have ample opportunity to show cause and satisfy the Municipal Corporation that such a notice should not have been issued at all. Further, this notice being traceable to sections 53 and 56 of the Maharashtra Regional and Town Planning Act, 1966, an application in terms of sub-section (3) of section 53 also can be made. We cannot presume that by issuance of a notice, any coercive action will be taken. The issuance of notice itself is not a coercive step as understood by both parties.

3. In these circumstances, by clarifying that all contentions are kept open, we dispose of the writ petition. The ad-interim order is vacated forthwith.

4. Needless to clarify that the petitioner must show cause within a period of 15 days from today. Till the petitioner shows cause, the Municipal Corporation should not pass a final order in terms of the show cause notice. The time to show cause will not be extended beyond 15 days and thereafter, the Municipal Corporation is not obliged to wait to pass its final orders.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)