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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****PUBLIC INTEREST LITIGATION NO. 111 OF 2017**

Vinayak S. Nikam

.....Petitioner

V/s.

Commissioner

.....Respondents

Municipal Corporation of City of Vasai
and Virar and anotherMr. A. K. Kotecha i/b Mr. Anand Wardkar for the petitioner
Mr. R. S. Datar for respondents**CORAM : PRADEEP NANDRAJOG, CJ. &
N. M. JAMDAR, J.****DATE : APRIL 26, 2019.****P.C.**

The grievance in the petition can be summed up from reproduction of sub paras I to IV of paragraph 4 of the petition. They read as under:

“(I) The Development Plan of Vasai Virar Sub Region is sanctioned by the Government of Maharashtra Vide Notification No. tps-1205/1548/CR-234/2005/UD-12. And

*in this Sub Plan Survey No. 102 and 103 situated at, in Vasai Virar city Municipal Corporation is falls within Residential Zone and out of that Reservation of a Garden Site No. 109, Community Centre Site No. 110, Market Site No. 111 and 12 Meter D.P. Road in Survey No. 102 is Reserved and in Survey No. 103, Bus Stand Site No. 102 and parking lot site No 103 is reserved. A copy of the Plan is annexed herewith and marked as **Exhibit A**.*

*(II) The Petitioner vide application dated 6.1.2017 obtained information about the Zonal Plan and the corporation vide letter dated 18.1.2017 provided the same and stated that in survey No. 102 and Survey No. 103 six site are reserved for various purposes like garden, Road, Market Bus Stand etc. a copy of the letter dated 6.1.2017 is annexed herewith and marked as **Exhibit B** and Copy of the reply dated 18.1.2017 is annexed herewith and marked as **Exhibit C**.*

*(III) The petitioner therefore immediately on 20.1.2017 written a letter about the illegal encroachment upon the reserved plot and requested the authorities to protect the plot from illegal encroachment. A copy of the letter is annexed herewith and marked as **Exhibit D**.*

(IV) The petitioner came to know that one Vasant Harishchandra Mukane, a Corporation employee, Moreswar

*Patil, Bharat Nago Patil are in hand in glow with the corporation are responsible person for illegal construction activity on the Reserved site and Corporation is not at all taking any steps for the protection of the Reserved Plot in the VVCMC area thereby depriving the citizen about the fundamental right of open spaces and community facilities. A copy of the letter dated 17.2.2017 is annexed herewith as **Exhibit E.***

2 The learned counsel for the respondents does not dispute the averments in the petition but claims that after the petition was served the officers have proceeded to issue notices to the offenders. Notices have been issued on 25/04/2019.

3 Thus, we dispose of the petition making the Commissioner of Municipal Corporation of the city of Vasai and Virar, District: Palghar personally responsible to ensure that his sub-ordinate officers who have issued notices would take the same to their logical conclusion. The Commissioner shall personally monitor the proceedings pertaining to the notices issued and if it is found that illegal structures have been made on the land without having title

thereto, strict action would be taken against such Municipal employees who have overlooked such blatant violation of law. With respect of structures on land where building constructed conforms to the user of the land, the Commissioner shall ensure that the built up area does not exceed permissible limits.

4 The Mandamus issued would be complied with within 6 months from today. Liberty granted to the petitioner to revisit this Court if the Mandamus is breached.

N. M. JAMDAR, J.

CHIEF JUSTICE