

29.7.2019

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7682 OF 2019

Shreenivas Greeland County Sahakari
Gruhrachana Sanshta Maryadit, PunePetitioners
V/s.
State of MaharashtraRespondent

* * * *

For petitioner : Mr. P.S. Dani, Senior Counsel a/w.
Mr. A.P. Kulkarni.

For respondents

no.1 to 3-State : Mr. Vikas M. Mali, AGP.

For respondent no.4 : Mr. Pramod Jadhav.

For Applicant in

CAO : Mr. Pravartak Pathak.

CORAM : S.C. DHARMADHIKARI, &

SANDEEP K. SHINDE, JJ.

Monday, 29th July, 2019.

P.C. :

1. A notice under section 53(1) of the

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Maharashtra Regional and Town Planning Act, 1966 has been issued now to the petitioners, copy of which is introduced and inserted as Exhibit-D-1 (at pages 64-A to 64-B) of the paper-book. That is dated 4th July, 2019. That is traceable to Section 53(1) of the Maharashtra Regional and Town Planning Act. It is addressed to Shrinivas Greenland County Sahakari Gruhrachana Sanstha Maryadit, Pune, to its President and its Secretary. The subject is of unauthorised development.

2. The development is described in the schedule to the notice and is stated to be two-fold. One is, the construction of a religious structure, Ganesh Mandir and other is that of a compound wall.

3. Mr. Dani, learned Counsel appearing on

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behalf of the petitioners states, on instructions that, the petitioners are not aggrieved by that part of the notice in relation to a religious structure presently. Their immediate concern is that, a compound wall which has been noticed at the site on an inspection carried out on 14th June, 2019 would be demolished without any opportunity to the petitioners to make out a case under sub-section (3) of Section 53 of the Maharashtra Regional and Town Planning Act, 1966.

4. We have been noticing that the authorities and particularly Pune Metropolitan Regional Development Authority seems to be unaware of sub-section (3) of Section 53. If these authorities were aware of such a provision, they would not have to face unnecessary and futile

litigation which results into precious judicial time of this Court being wasted.

5. Now the petitioners have indeed an explanation to the construction of the compound wall. They have stated that it is constructed but with a justification. It is known as a protection wall. It is on the western side of the internal approach road. It is not unauthorised development. That has been reflected in the sanctioned plan/map of 2009. It is therefore clear that the petitioners seek retention of this wall at the site.

6. We do not express any opinion, insofar as, the stand of the petitioners is concerned but we allow the petitioners to appear before the Pune Metropolitan Regional Development Authority on the

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3rd August, 2019 at 11.00 a.m. with proper application supported by all documents and traceable to sub-section (3) of Section 53 of the Maharashtra Regional and Town Planning Act, 1966.

7. Needless therefore to clarify that, during the pendency of this application and on order being made thereon after hearing the petitioners/representative, the wall should not be demolished.

8. The apprehension of Mr. Dani is that, in the event, an adverse order is passed, it may be implemented forthwith and the wall would then be brought down.

9. It is the stand of the petitioners

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that, it is a protection wall. We therefore expect the Authorities that in the event, they pass an adverse order, not to demolish this Wall for a period of two weeks from the date of communication of their order to the petitioner. We clarify that, we have not expressed any opinion on the rival contentions. The Writ Petition is disposed of in the above terms.

10. The Civil Suit, being Regular Civil Suit No. 1094 of 2019 is also disposed of.

(SANDEEP K. SHINDE J.)

(S.C. DHARMADHIKARI, J.)