

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.606 OF 2016
 IN
 WRIT PETITION NO.5032 OF 2013

Vinay Dattatray Tik & Ors. ...Applicants

In the matter between:

Deepak Dattatray Deshmukh ...Petitioner

v/s.

State of Maharashtra & Ors. ...Respondents

Mr.Surel Shah for the Applicants.
 Mr.V.S.Gokhale, B-Panel Counsel for the State.

...
CORAM : A.A. SAYED &

REVATI MOHITE DERE, JJ.

DATED : 29 JANUARY 2020

(IN CHAMBER AT 2.45 P.M.)

P.C.:

This Civil Application is filed by the Applicants seeking the following prayers:

“(a) This Hon'ble Court be pleased to direct the Respondents to restore the structures of the Applicants as per permission granted by the Gram Panchayat Bondle as it existed prior to the demolition pursuant to the orders passed by this Hon'ble Court dated 3rd August 2015;

(b) This Hon'ble Court be pleased to hold and declare that the action of structure is in breach of principles of natural justice and is on the basis of map which was prepared without giving notice to the concern including Applicants herein;

(c) This Hon'ble Court be pleased to permit the Applicants to reconstruct demolished portion strictly in accordance with the permission granted by Gram Panchayat, Bondle and further be pleased to direct Respondents to reimburse cost incurred by the Applicants in reconstruction of structures;"

2. The structures of the Applicants were demolished pursuant to the order dated 3 August 2015 passed in Writ Petition No.5032 of 2013, the operative part whereof reads as follows:

"ORDER

(I) We direct the fifth respondent to place the copies of the survey maps drawn by the Deputy Superintendent of Land Records before the Collector of District Solapur. The Collector of District Solapur shall issue directions to the concerned officer to initiate action of demolition of the illegal structures and action of removing encroachments made upon the road in question;

(ii) The concerned officer nominated by the Collector shall complete the

action in accordance with law within a period of four months from the date on which an authenticated copy of this order is produced by the petitioner before the District Collector of Solapur. It will be open for the petitioner to produce copies of the survey maps drawn by the Deputy Superintendent of Land Records in the office of the Collector of District Solapur along with an authenticated copy of this order;

(iii) The Collector of District Solapur shall act upon an authenticated copy of this order;

(iv) We make it clear that the action of removal of the structures/encroachments shall be taken strictly in accordance with law;

(v) The petition is disposed of in above terms.”

3. It is the contention of the learned Counsel for the Applicants that the structures of the Applicants, who were not parties to the Writ Petition No.5032 of 2013, are legal. It is contended that the structures of the Applicants have not been demolished by following the due process of law.

4. It is noticed that the structures of the Applicants were demolished sometime in January 2016. The present Civil Application has been filed on 25-02-2016 after disposal of the Writ Petition No.5032 of 2013 on 03-08-2015. No steps have been taken to move the Civil Application which is now pending for about 4 years.

5. Inasmuch as the Petition is already disposed of, we are not inclined to grant any relief in this Civil Application. It will, however, be open for the Applicants to file appropriate proceedings as permissible in law to seek the reliefs sought in this Civil Application. We clarify that if the Applicants prove that their structures are legal, the order dated 3 August 2015 of this Court shall not come in their way for granting appropriate reliefs.

6. With the aforesaid observations, the Civil Application is dismissed.

(REVATI MOHITE DERE,J.)

(A.A.SAYED, J.)