

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 2176 OF 2020**

Smt. Olga Sylvan Gonsalves

... Petitioner

Versus

The Commissioner, Mira Bhayander Municipal Corporation
and others

... Respondents

.....

Mr. Sanjiv Sawant instructed by Mr. Abhishek Deshmukh for the Petitioner.

Mr. Mayuresh Lagu for the Respondent-Mira Bhayander Municipal Corporation.

Mr. Y.S. Kochare, AGP for Respondent No.3 State.

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CORAM : S.J. KATHAWALLA AND**R.I. CHAGLA, JJ.****DATED : MARCH 4, 2020.****P.C. :-**

1. By the above Writ Petition, the Petitioner seeks the following reliefs :-

“(a) This Court be pleased to call for the record and proceedings pertaining to the impugned order dated 24/4/2019 passed by the Ld. Additional Commissioner, Mira Bhayander Municipal Corporation, and after examining the legality, validity and propriety of the same be pleased to quash and set aside impugned order dated 24/4/2019.

“(b) This Court be pleased to pass an order thereby directing Respondent No.1 and 2 to take appropriate action of demolition pursuant to illegal encroachment and unauthorised construction erected on Petitioner’s land bearing Survey No.472/5 admeasuring 1 Acre 1 Guntha at Village Naughar Road, Bhayander, Kashi Mira Road, Bhayander, Taluka & District Thane.”

2. The Additional Commissioner of the Corporation has by his letter dated 24th April, 2019, which is impugned herein, disposed of the complaint of the Petitioner dated 25th January, 2018 on the ground that the Corporation has already taken legal action against the constructions carried out by Mr. Shaukat Kapoor and others.

3. We are informed that the Corporation did commence action on the complaint filed by the present Petitioner. However, in Writ Petition No. 1641 of 2017 filed by the said Shaukat Kapoor and others, this Court (Coram : R.G. Ketkar, J. as he then was) has continued the order of status quo earlier granted by the learned Trial Judge on 4th July, 2012 and continued by the District Court during the pendency of Civil Appeal No. 117 of 2013.

4. The learned Advocate appearing for the Petitioner states that the District Court had already passed an Order dated 2nd February, 2017 rejecting the Misc. Civil Appeal No. 117 of 2013. Since a copy of the said order was not available, this Court passed an Order on 7th February, 2017 continuing the order of status-quo. If that be so, the Corporation may move before the learned Single Judge before whom the said Writ Petition No. 1641 of 2017 is pending with a request for early hearing of Writ Petition No. 1641 of 2017, without which the Corporation as well as this Court are unable to assist the Petitioner.

5. Needless to add that the Corporation shall not be precluded from taking any action against the unauthorized constructions to which the order of status quo passed by this Court dated 7th February, 2017 in Writ Petition No. 1641 of 2017 does

not apply.

6. The Writ Petition is accordingly disposed off.

(R.I. CHAGLA, J.)

(S.J. KATHAWALLA, J.)