

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6513 OF 2021

Ravindra Vasantrya Yadav ... Petitioner
Versus
State of Maharashtra & Ors. ... Respondents

Mr.K.U.Patil for the Petitioner.
Ms.S.D.Vyas, B Panel Counsel for the State.
Mr.Dilip Bodake for Respondent No. 2.
Mr.Sachin Chavan i/b. Mr.S.K.Kulkarni for Respondent No. 5.
Mr.Ramakant Dake, Chief Officer, Karad Municipal Council, present in person.

CORAM : S.J. KATHAWALLA, &
MILIND N. JADHAV, JJ.
DATE : 12TH OCTOBER, 2021

P.C. :

1. Admittedly, the notices dated 21st December, 2005 and 28th November, 2007 were issued under the Maharashtra Regional & Town Planning Act, 1966 (**the Act**) by the Respondent No. 2 - Karad Municipal Council (**Council**) with regard to the illegal construction carried out by Respondent Nos. 5 and 6 in Final Plot No. 456, situated within the limits of Karad City, Taluka - Karad, District - Satara. By the said Notices, Respondent Nos.5 and 6 were warned that if they do not remove the unauthorized structures the Council will proceed to remove/demolish the same. Respondent Nos. 5 and 6 did not remove the unauthorized structures. On 4th December, 2010, the Chief Officer of Council in exercise of power conferred under

Section 142 of the Act read with Section 152 of the Act had passed an Order according sanction to prosecute Respondent Nos. 5 and 6. Despite the sanction, the Chief Officer of the Council failed to take steps for removal/demolition of the unauthorized construction till date. The Petitioner has therefore filed the above Writ Petition seeking direction against the Council to demolish the unauthorized construction.

2. Being emboldened by the lethargic approach of the Council, Respondent No.5 has further carried out illegal construction, for which a fresh notice dated 1st September, 2021 is again issued to the Respondent No. 5. However, the said notice dated 1st September, 2021 is not the subject matter of the present Writ Petition.

3. Today, the Chief Officer of the Council is present before us. When we inquired from him as to why the unauthorized structures which form the subject matter of the notices issued in the years 2005 and 2007 are not demolished, he states that he has been appointed only in July, 2020.

4. The learned Advocate appearing for the Council states that from December, 2020, he has sent three letters to the Chief Officer of the Council seeking instructions, but the Chief Officer of the Council has not responded to any of the said three letters. The unauthorized constructions mushrooming in the State are mainly due to the concerned officials turning a blind eye and not taking stringent action against those responsible for the same. The reasons for such inaction are not far to seek.

5. The learned Advocate appearing for Respondent No. 5 on instructions

admits that the impugned structures are unauthorized. However, he states that an Application seeking regularization of the unauthorized construction is submitted in May, 2021 to the Council. When we asked for a copy of the regularization Application we are told that he is not having any copy of the same. However, the Chief Officer of the Council states that no regularization Application is submitted to the Council and that the Application submitted by Respondent No.5 is for redevelopment of the property. Left with no answer, the learned Advocate appearing for Respondent No. 5 on instructions states that Respondent No. 5 will remove the unauthorized construction. Keeping in mind the conduct of the Respondent No.5 we are not inclined to leave it to him to remove the unauthorized structures.

6. In the circumstances, we pass the following Order :

- i. The Chief Officer of the Council who is present before us shall take steps to forthwith demolish the illegal constructions carried out by Respondent Nos. 5 and 6 on the subject plot which are subject matter of the notices dated 21st December, 2005 and 28th November, 2007.
- ii. The Superintendent of Police, Satara shall provide adequate police protection to the officials of the Council engaged in demolishing the unauthorized construction carried out by Respondent Nos. 5 and 6 on the subject plot.
- iii. In the event of Respondent Nos.5 and 6 wanting to re-erect the structures, they shall do so only after obtaining necessary permission/s, which permission/s when applied for shall be granted by the concerned authorities strictly on

merits and as per the provisions of law.

iv. The above Writ Petition is accordingly disposed off.

(MILIND N. JADHAV, J.)

(S.J. KATHAWALLA, J.)