

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 3130 OF 2021

Shaikh Hanif Hasan & Anr. ... Petitioners

Versus

Lonavala Municipal Council & Ors. ... Respondents

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Mr. Shailendra Mishra with Mr. Sharad Rai for the Petitioner.
Mr. R. S. Apte, senior counsel I/b A. A. Garge for Respondent No.1.
Mr. Sanjay Jain, with Mr. Mayur Khandeparkar, Mr. Nakul Jain, Mr. Harsh Behany, Ms Bijal Vora I/b Divya Sangahvi for the Respondent Nos. 2 to 4.
Mr. Prathamesh Kamat for Respondent No.14.

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CORAM : K.K. TATED &
PRITHVIRAJ K. CHAVAN, JJ.

DATE : JULY 28, 2021.

P.C. :-

. Heart.

2. The Petitioners are seeking several directions against the Respondents in respect of the D. P. Road. He made the following prayers in the present petition:

“a. This Hon’ble Court be pleased to call for all the records and proceeding of the said project of Respondent No.2 and same may pleased be scrutinized by this Hon’ble Court.

b. The Respondent No.1 be directed to visit the disputed site i.e. Survey No. 36/2 of Village

Tungarli of Respondent No.2 along with the ATP of Lonavla Municipal Council, architect of the Respondent No.2, the Chief Officer himself and the present petitioner and the said Chief Officer be directed to submit in writing, immediate the present situation going on at the disputed site along-with all the contravention carried out at site under Video footage at the cost of the Petitioners and submit the same before this hon'ble Court.

c. An independent agency may please be appointed to visit the said disputes site and report the illegal activities, construction excavation, diversion, blockage of the public road, and other similar activities.

d. That upon receipt of the records and proceeding of the said project of Respondent No.2 and upon scrutiny done by this Hon'ble Court the Occupation Certificate dated 3/11/2020 bearing no. ENG/BP/6/2017-18+104/18-19/13/2019-20/1087/OC/2282 be set aside and quashed and all the illegal construction carried out by the Respondent No.2 be directed to be removed and Respondent No.1 be directed to ensure all such illegalities are removed and D P Road encroached upon is restituted back to its position as it was;

e. That the Respondent No.1 be directed to take action upon the Complaint dated 2.6.2021, as filed by the Petitioners against the Respondent No.2, in accordance with law.

f. The Respondent No.1 Lonavla Municipal Council be directed to withheld and withdraw the completion and occupancy certificate issued by it to the respondent no.2.

g. During the pendency of this petition the Respondent No.2 to be directed to stop all his construction activities till disposal of present petition and Occupation Certificate issued by kept in abeyance.

h. Interim and ad-interim reliefs in terms of Prayer Clause (a), (b), (c) (d) (e) and (f) be granted;

I. Any further order in the interest of justice may pleased be passed.”

3. The learned counsel for the Petitioners submits that they have already filed complaint with Respondent No.1 dated 02/06/2021 (Exhibit-G, Page-57) which is pending for the last several days. He submits that, in the interest of justice, this Hon'ble Court be pleased to direct Respondent No.1 to decide the said complaint on its own merits and inform their decision to the Petitioner.

4. Considering the submissions made by the learned counsel for the Petitioners and as the Petitioners' application dated 02/06/2021 is pending before Respondent No.1, the following order is passed.

a. Respondent No.1 is directed to decide the Petitioners' application/representation dated 02/06/2021 (Exhibit-G, Page-57) on its own merits on or before 22/09/2021 and inform the decision in writing to the Petitioner.

b. The writ petition stands disposed of with those directions.

c. No order as to costs.

d. All contentions of the parties are kept open.

(PRITHVIRAJ K. CHAVAN J.)

(K.K. TATED, J.)