

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

PUBLIC INTEREST LITIGATION (L) NO. 4382 OF 2020

Asagar Abbas Shaikh	}	Petitioner
Versus		
The Municipal Corporation	}	
of Greater Mumbai and Ors.	}	Respondents

**WITH
INTERIM APPLICATION NO. 2568 OF 2020
IN
PUBLIC INTEREST LITIGATION (L) NO. 4382 OF 2020**

The Mumbai Fresh Fish	}	
Dealers Association (Regd.)	}	Applicant
In the matter between		
Asagar Abbas Shaikh	}	Petitioner
Versus		
The Municipal Corporation	}	
of Greater Mumbai and Ors.	}	Respondents

Mr.Rajiv Narula i/b. Mr.M.A.Khan for the petitioner.

Mr.A.Y.Sakhare, Senior Advocate with Ms.K.H.Mastakar for respondent MCGM.

Mr.Vaibhav Sugdare with mr.Amit Potnis for the applicant in IA No. 2568 of 2020.

**CORAM :- DIPANKAR DATTA, CJ &
G. S. KULKARNI, J.**

DATE :- JULY 6, 2021

PC :-

1. An affidavit has been filed by the Municipal Corporation of Greater Mumbai (hereafter "the Corporation", for short), in compliance with the order dated 30th June 2021, setting forth therein the plan of action to shift the Chhatrapati Shivaji Maharaj Fish Market. It is stated that till such time trading activity is allowed to resume at the fish market to be demolished and reconstructed, the traders would be at liberty to trade in fish at Airoli Octroi Naka plot or in the other markets of the Corporation as per the availability. The immediate future plan is for permitting trade in fish in a temporary ground floor shed, which will be constructed after demolition of the existing building.

2. In view of the contents of such an affidavit, Mr.Narula, learned counsel for the petitioner and Mr.Sakhare, learned senior counsel for the Municipal Corporation submit that nothing survives for decision and the writ petition may be disposed of.

3. At this stage, Mr.Sugdare, learned counsel for the applicant in Interim Application No. 2568 of 2020 raises objection and submits that the writ petition may not be disposed of without hearing such applicant. According to Mr.Sugdare, the applicant is an association of fish traders carrying on business at Chhatrapati Shivaji Maharaj Fish Market and such traders are aggrieved by the decision of the Corporation to shift them at Airoli Octroi Naka plot, which is at a distance of more than 40 kms., and therefore they seek to intervene through the association.

4. Although the order dated 30th June 2021 records the appearance of Mr.Amit Potnis, learned advocate appearing for the applicant in Interim Application No. 2568 of 2020, no submission was made on behalf of the applicant to the effect that directions contained in such order should not be made without hearing the applicant. In fact, such an order was dictated in the presence of Mr.Potnis without any objection being raised. In any event, the order dated 30th June 2021 records that the pictures produced by the petitioner by way of an additional affidavit did suggest the dilapidated condition of the fish market and the opinion of the Court, based on visual impression of such photographs, that there is every likelihood of not only the lives of the fish traders and their associates but also the consumers, visiting the fish market, to be at risk. The Corporation has pleaded in its affidavit that the subject building is to be demolished in view of its dilapidated nature or condition, and arrangements would be made for the fish traders elsewhere, with provisions for a temporary shed as and when demolition of the building is complete. In such view of the matter, we find no reason to hear the applicant at this stage on its grievance. The condition of the subject building is such that we cannot allow it to be retained, contrary to the view taken by the Corporation, and the Corporation having decided to proceed for its demolition, we are of the considered opinion that there is no reason to keep this writ petition pending any further.

5. The writ petition stands disposed of accordingly. In view of the same, the Interim Application does not survive. The

same also stands disposed of. The Corporation is granted liberty to proceed in terms of the plan of action indicated in the affidavit.

(G. S. KULKARNI, J.)

(CHIEF JUSTICE)