

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

960 WRIT PETITION NO.2268 OF 2019

ROHIDAS BHIVSN SHINDE

...PETITIONER

VERSUS

DHULE MUNICIPAL CORPORATION

DHULE THROUGH COMMISSIONER

..RESPONDENT

Advocate for Petitioner : Mrs. Kazi Sabahat T.

Advocate for Respondent : Mr. A.S. Sawant

CORAM : BHARATI H. DANGRE, J.

DATE : 01.02.2022.

PER COURT :-

1. The present petitioner, is the original plaintiff in R.C.S. No. 136 of 2018 filed before the learned 2nd Jt. Civil Judge, Junior Division, Dhule, seeking declaration and perpetual injunction against the Dhule Municipal Corporation. The petitioner claims to be a owner of plot No. 1/2 situated in Gut No. 17 within the municipal limit of Dhule and the claim set out is to the effect that he and his family are residing in the suit property since last 35 years.

2. Since the Municipal Corporation, Dhule issued a notice to the petitioner on 19.03.2018 directing him to remove the unauthorized construction described in the notice in which the construction of 80x8 ft, near D.P. (along with staircase) used for residential and commercial purpose and encroaching

upon the D.P. road as well as structure of 40x4 ft at the back side, the petitioner filed a Regular Civil Suit No. 136 of 2018 in the Court of learned Jt. Civil Judge, Junior Division, Dhule in which an application vide Exh. 5 for temporary injunction came to be filed. This application was rejected on 21.08.2018, by the Joint Civil Judge, Junior Division, Dhule against which Misc. Civil Appeal No. 32 of 2018 was filed before the learned District Judge, Dhule.

3. Pertinent to note that, during the pendency of the Misc. Civil Appeal, the petitioner alleged that the respondent demolished half portion of the building and therefore, an application vide Exh. 19 was filed in the appeal, restraining the respondent from demolishing the remaining portion of the building and on 24.12.2018 the learned District Judge, Dhule granted an order of status quo. On 22.01.2019, the learned District Judge, Dhule, concurred with the finding of the first court, and dismiss the appeal, which constrained the petitioner/plaintiff to file application for stay and on 23.01.2019, the learned Judge directed to maintain the status quo for the period of 30 days from the date of order subject to depositing an amount of Rs. 30,000/- by the petitioner, which was accordingly deposited.

4. This order of status-quo was continued further by this Court while issuing notice on 18th February 2019 and the status-quo as on today is maintained.

5. The learned counsel for the Municipal Corporation categorically states that the impugned notice pointed out the details of the unauthorised construction and what the corporation is seeking to remove only portion which is an encroachment on the D.P. road. In any case, the position as on today is some portion of the alleged unauthorized construction has been removed, whereas remaining portion is standing. This position is continuing since 23.01.2019 and therefore, it is necessary that the trial Court shall decide the R.C.S. No. 136 of 2018 filed by the plaintiff finally, since the structure of the petitioner is standing half way.

The learned Civil Judge, Junior Division, Dhul is directed to culminate the proceeding R.C.S. No. 136 of 2018 by maintaining the position of the status quo as on today and the proceeding shall be completed within a period of six months from today.

Needless to state that neither the plaintiff nor the respondent shall seek unnecessary adjournments and the learned Judge, shall be mindful direction of this Court to dispose of the

proceeding within six months and would refrain himself from granting unnecessary adjournments.

With the aforesaid direction, the Writ Petition is dismissed.

(SMT. BHARATI H. DANGRE)
JUDGE

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