

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 1021 OF 2015
WITH
WRIT PETITION NO. 4238 OF 2016
WITH
WRIT PETITION NO. 6989 OF 2015**

Shashikant Motilal Kothari.	...Petitioner
V/s.	
Anand Park Residents Association & Ors.	...Respondents

Mr. .G.S. Godbole i/b. Mr. Abhishek Pungaliya, for the Petitioner in 3 petitions.

Mr. S.V. Sadavarte, for respondent No. 1 in 3 petitions.

Mr. Vishwanath Patil, for respondent No. 17 in 3 petitions.

Mr. R.P. Kadam, AGP for respondent No. 18 in 3 petitions.

Mr. Gajanan Sarane, Jr. Engineer of PMC is present.

**CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.**
DATE : 18TH OCTOBER, 2022.

P.C. :-

1. The Writ Petition No. 1021 of 2015 is placed alongwith Writ Petition No. 4238 of 2016 and Writ Petition No. 6989 of 2015 on 6th October, 2022. This Court after hearing the learned counsel for the parties directed the Municipal Corporation to take instructions on various issues formulated in paragraph-5 of the said order.

2. Mr. Patil, learned Counsel for the Pune Municipal Corporation on instructions states that his client would withdraw the impugned publication as well as communication dated 24th June, 2022 annexed at Exh. D at page 206 of the Writ Petition and would issue fresh notice/publication calling upon the Petitioner to show cause as to why action of recovering of possession of plot in question against the Petitioner shall not be taken.

3. If any such fresh notice/publication is issued by the Municipal Corporation, the Petitioner would be at liberty to respond to the said notice and to raise all permissible pleas including plea of jurisdiction of Pune Municipal Corporation within four weeks from the date of issuance of notice/publication.

4. The Municipal Corporation to pass a fresh order without being influenced by the observations made or conclusions drawn in the impugned communication and after granting personal hearing to the Petitioner as well as to respondent No. 1, within 8 weeks from the date of hearing the parties concerned. All contentions of the parties are kept open.

5. If any such order is passed by the Officer of Municipal Corporation, the same shall be communicated to both the parties

within one week from the date of passing the order. If any of the parties is aggrieved by the said order, he will be at liberty to file appropriate proceedings as permissible in law.

6 If the order is against the Petitioner, no coercive action be taken for a period of 4 weeks from the date of communication of the order.

7. It is made clear that in view of the order passed aforesaid, we have not gone into the validity of Bye-Laws/Rule No. 13.3.1.5 of the Development Control Rules for Pune Municipal Corporation, Pune, 1982 at this stage. If occasion arises in future, the Petitioner can challenge the validity of the said Bye-Laws.

8. Writ Petition No. 1021 of 2015 is disposed of in the aforesaid terms.

9. Place Writ Petition No. 4238 of 2016 and Writ Petition No. 6989 of 2015 before the learned Single Judge for admission on 14/11/2022.

10 The parties to act on the authenticated copy of this order.

(KAMAL KHATA, J.)

(R.D. DHANUKA, J.)