

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2778 OF 2022

Mr.A.V. Anturkar, Senior Advocate i/b Preet Phanse, for Petitioners.
Mr.Deepak More, with Mr.Shivram Gawade, for Respondent Nos.1 and
2- Corporation.
Mr.G.S. Godbole i/b Mr.Drupad Patil, for Respondent No.3

DATE : 23RD JUNE, 2022.

- 1] Rule. Rule is made returnable forthwith.
- 2] Mr. Deepak More, learned counsel for Respondent Nos. and 2 – Municipal Corporation, waives service of notice.
- 3] Mr. G.S. Godbole, learned counsel for Respondent No.3 waives service of notice.

4] By this Petition filed under Section 226 of the Constitution of India, the Petitioners seek a writ of certiorari for quashing and setting aside the letter dated 24th December, 2021 and letter dated 14th January, 2022, issued by the Municipal Corporation.

5] Mr. Deepak More learned counsel for Respondent Nos.1 and 2 on instructions from Mr. Sunil Bhagwani, Executive Engineer, states that Respondent Nos.1 and 2 would withdraw the communication dated 14th January, 2022 annexed to the Petition at Exhibit 'O' and would issue a fresh notice upon the Petitioners within a period of two weeks from today. Statement is accepted. A copy of the notice shall also be served upon the Petitioners and Respondent Nos.3 and 4. The Petitioners and Respondent Nos.3 and 4 would be at liberty to file reply to the said notice within a period of two weeks from the date of receipt of such notice. The parties have agreed that hearing on the said notice can be rendered by the Municipal Commissioner to the Petitioners as well as Respondent Nos.3 and 4.

6] Municipal Commissioner is directed to decide the said notice after considering the reply that may be filed by the Petitioners and Respondent Nos.3 and 4 without being influenced by the observations made and the conclusion drawn in the impugned letter dated 14th

January, 2022 and in accordance with law, within a period of one week from the date of parties appearing before the Municipal Commissioner.

7] The order passed by the Municipal Commissioner shall be communicated to the Petitioners as well as Respondent Nos.3 and 4 within 48 hours from the date of passing of such order.

8] The learned senior counsel for the Petitioners states that for a period of four weeks from today, the Petitioners will not carry out any construction on the land which is subject matter of the impugned order without prejudice to the rights and contentions of the Petitioner. Statement is accepted.

9] Writ Petition is disposed of in aforesaid terms. No order as to costs. Rule is made absolute accordingly.

10] All concerned to act on an authenticated copy of this order.

11] The Municipal Corporation shall issue 48 hours notice to the parties before the date of hearing. The Municipal Corporation shall pass speaking order by following principles of natural justice.

12] It is made clear that this court has not expressed any views on merits of the impugned order passed by Respondent Nos.1 and 2. The order is passed in view of the statement made by the learned counsel for Respondent Nos.1 and 2 on instructions.

[M.G.SEWLIKAR, J]

[R.D.DHANUKA,J]