

Dusane

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.18893 OF 2022
IN
PUBLIC INTEREST LITIGATION NO.7 OF 2020**

Terence Roman Hendriques ...Applicant

V/s.

State of Maharashtra thru' GP & Ors. ...Respondents

Mr. Ajay S. Jaiswal a/w Mr. Himanshu Rai for
Applicant.

Mr. P.P. Kakade, GP a/w B.V. Samant, AGP for
State/ Respondent no. 2.

Mr. Ashutosh R. Gole for Respondent no. 16.

Ms. Swati Sagvekar for Respondent nos. 2 and 3.

**CORAM: DIPANKAR DATTA, CJ. &
MADHAV J. JAMDAR, J.**

DATE: OCTOBER 17, 2022

P.C.:

1. This is an application seeking recall of an order dated 4th July 2022 whereby a co-ordinate Bench of this Court (cor. A.K. Menon & M.S. Karnik, JJ.) disposed of, among others, PIL No. 7 of 2020 by passing the following operative order:

"(i) Affidavit disclosing particulars per paragraph 1 above shall be filed within four weeks from today.

(ii) Let the Notice boards altering the public at large be fixed in terms of paragraph 3 above within a period of four weeks from today.

(iii) Petition is disposed in the above terms."

BHALCHANDRA
GOPAL DUSANE

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2. The grievance of the petitioner in PIL No. 7 of 2022 is that the Court ought to have ensured that the affidavit, required to be filed by the Vasai-Virar Municipal Corporation in terms of the order dated 6th June 2022, is first filed and thereafter the PIL is disposed of.

3. We have been informed by Ms. Swati Sagvekar, learned advocate appearing for the Corporation that an affidavit dated 23rd June 2022 sworn by Mr. Ashish Patil, Deputy Municipal Corporation was duly filed in the Department.

4. Such affidavit is found to be part of the records of PIL Petition No.7 of 2020, paragraph 3 whereof reads as follows:

"3. I say that the details as mentioned in paragraph (5) of the Order dated June 6, 2022 are as follows:

a. I say that 633 notices under Maharashtra Regional and Town Planning Act, 1966 were given during last two years.

b. I say that 279 caveats have been lodged by this Respondent in the Civil Courts at Vasai.

c. I say that 173 structures have been demolished by this Respondent during last two years.

d. I further say that in 45 number of suits injunction orders have been passed."

5. We find that the order dated 6th June 2022 required the Corporation to put on record by way of an affidavit, the number of demolitions ordered, number of caveats that have been lodged, number of demolition orders that have been implemented and the number of cases where demolition orders could not be given effect due to injunction granted by the Civil Court.

6. Having read the affidavit of the Corporation, there is no reason to recall the order of dismissal of PIL Petition No. 7 of 2022 at the instance of the petitioner. On the contrary, we delete sub-paragraph (i) of paragraph 4 of the said order since the co-ordinate Bench appears to have not noticed that an affidavit was indeed filed by the Corporation.

7. The application stands dismissed. No costs.

8. It is made clear that if the Corporation is found to be remiss in future in giving effect to the orders of demolition passed by it despite there being no prohibitory order operating in the field, the petitioner shall be at liberty to bring the same to the notice of this Court by filing an appropriate petition in accordance with law.

(MADHAV J. JAMDAR, J.)

(CHIEF JUSTICE)