

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 19285 OF 2022

IN

WRIT PETITION NO. 3669 OF 2014

KANCHAN
VINOD
MAYEKAR

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KANCHAN VINOD
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M/s. Foreceten Constructions

...Applicant

IN THE MATTER BETWEEN :

M/s. Foreceten Constructions

...Petitioner

VERSUS

Union of India & Ors.

...Respondents

Mr. Girish Godbole a/w. Mr. Saket Mone, Mr. Abhishek Salian i/b.
Vidhi Partners for the Applicant/Petitioner.

Mr. A.I. Patel, Additional G.P. a/w. Mr. A.A. Alaspurkar, AGP for the
State.

Mr. A.P. Kulkarni a/w. Ms. Sneha Shah and Mr. Aditya Mahadik for
the Respondent Nos. 5 and 6.

Smt. S.V. Bharucha i/b. Mr.A.A. Ansari for the Respondent Nos. 1 &
2.

**CORAM: R. D. DHANUKA AND
KAMAL KHATA, JJ.**

DATE : 20TH OCTOBER, 2022

P.C:-

By this interim application, the applicant seeks stay of the effect,
implementation and operation of the impugned show cause notice

dated 16th February, 2019 and the impugned order dated 29th September, 2022. The show cause notice came to be issued by the Municipal Corporation during the pendency of this writ petition which is already admitted. The applicant had responded to the said show cause notice dated 16th February, 2019.

2. A perusal of the order dated 29th September, 2022 however indicates that the Municipal Corporation has allowed the show cause notice also on the ground that there is no response to the said show cause notice though the same was forming part of the record.

3. Mr.Kulkarni, learned counsel for the Municipal Corporation invited our attention to the order dated 2nd December, 2014 passed by this Court in this writ petition and more particularly paragraph (7) and submitted that this Court had already refused to grant even limited interim relief by permitting completion of plastering work of 78 row houses. He submitted that no interim relief thus can be granted by this Court in this interim application.

4. It is not in dispute that when the petition was filed, the petitioner

had impugned the notification dated 15th February, 2007 issued by the Ministry of Defence and had applied for stay of the operation of the said impugned notification and stop work notice dated 9th April, 2008 at that stage. There was no such action initiated by the Municipal Corporation proposing to demolish the offending structures. Since the action is now initiated by the Municipal Corporation proposing to demolish the offending structures which is the subject matter of the writ petition which is already admitted by this Court, we grant stay of the impugned order dated 29th September, 2022 passed on the show cause notice dated 16th February, 2019 which would remain operational during the pendency of the petition.

5. Mr. Godbole, learned counsel for the applicant, on instructions, states that his client has not carried out alteration or construction of any nature whatsoever after the order dated 2nd December, 2014 and would not carry out any such alteration and/or construction of any nature whatsoever without obtaining prior sanction of the Municipal Corporation during the pendency of the petition. Statement is accepted.

6. Interim application is allowed in the aforesaid terms. No order as to costs. The parties to act on the authenticated copy of this order.

[KAMAL KHATA, J.]

[R. D. DHANUKA, J.]