

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***ORDINARY ORIGINAL CIVIL JURISDICTION*****WRIT PETITION NO. 4214 OF 2022****Rita Mahesh Dadarkar****..... Petitioner****VERSUS****The Municipal Corporation of Greater Mumbai
& Ors.****..... Respondents**

Dr.Abhinav Chandrachud, a/w. Mr.Mehul Rathod, Mr.Laxmi-Narayan Shukla, i/b. M/s.Legal Vision for the Petitioner.

Mr.Narendra V. Walawalkar, Senior Advocate, a/w.Mr.Kunal Waghmare, i/b. Mr.Sunil Sonawane for the Respondent nos. 1 and 2 – MCGM.

Mr.L.T.Satelkar, A.G.P. for the Respondent no.3 – State.

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

DATE : 18TH NOVEMBER, 2022

P.C:-

The matter was argued for sometime. Learned counsel for the parties jointly state that this Court is not required to record any reasons for disposing off this petition. Statement is accepted.

2. By this petition filed under Article 226 of the Constitution of India, the petitioner seeks writ of mandamus against the respondent

nos. 1 and 2 to provide the petitioner permanent access of minimum 9 meters from main road i.e. R.M.Bhattad Road till petitioner's land on such terms and conditions as this Court may deem fit.

3. Our attention is invited to the map annexed at pages 188 and 189 of the affidavit in rejoinder to indicate that the petitioner who claims to be on plot no. 338B is altogether different than the plot no. 611 on which the Municipal Corporation proposes to construct the Nala.

4. This matter was on board on 19th September, 2022 when the Municipal Corporation sought time to take instructions and to make a statement whether any permanent access as sought by the petitioner could be granted so as to avoid inconvenience caused to the petitioner or not. The matter thereafter appeared on 23rd September, 2022 when this Court directed the Municipal Corporation to file an affidavit and directed the petitioner to take instruction as to whether any other access is available to his client to approach the plot in question without affecting the Nalla or not.

5. Dr.Chandrachud, learned counsel for the petitioner on instruction

states that there is no other access available to his client to approach the writ plot. Statement is accepted. According to the Municipal Corporation there may be some access available from the adjoining plot for which the petitioner has to make efforts and to find out and to seek right of way for access from such other plot also.

6. At this stage, Dr.Chandrachud for the petitioner on instruction states that his client would file civil suit before the appropriate Court *inter alia* praying for access to the plot of the petitioner from the convenient plot including against the Municipal Corporation within six weeks from today. Statement is accepted. The petitioner would be at liberty to implead the parties against whom the petitioner would seek the right of way to approach the plot of the petitioner stated to be plot no. 338B.

7. The interim protection granted by this Court on 19th September, 2022 and continued by an order dated 23rd September, 2022 to continue for a period of three months from today on the same terms recorded by this Court in both these orders.

8. It is made clear that the Civil Court shall decide the suit on its own merits without being influenced by the interim protection granted by this Court in these two orders.

9. Writ petition is disposed off in the aforesaid terms. No order as to costs.

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

[KAMAL KHATA, J.]

[R. D. DHANUKA, J.]