

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.13506 OF 2023
IN WP/11220/2021**

**THE MUNICIPAL CORPORATION, AHMEDNAGAR
THROUGH ITS COMMISSIONER
VERSUS
AHMEDNAGAR VEGETABLES AND FRUITS
COMMISSION AGENT ASSOCIATION AND OTHERS**

...
Advocate for the Applicant : Shri V.D. Hon, Senior Advocate a/w
Shri Lokhande Kishor N.

Advocate for the Petitioners in WP : Shri G.K. Naik Thigle
AGP for Respondents 2, 3 and 5/State : Shri P.S. Patil
Advocate for Respondent 4 : Shri R.N. Dhorde, Senior Advocate
a/w Ms.Rekha M. Mohale

Advocate for Respondents 7, 8 and 9 in WP : Shri R.B. Narwade
Patil

Advocate for the Intervenor/ Applicants in CA 13762/2023 : Shri
S.S. Thombre

...
**CORAM : RAVINDRA V. GHUGE
&
Y. G. KHOBRAGADE, JJ.**

DATE :- 08th November, 2023

Per Court :-

1. By the judgment dated 30.06.2023 in Writ Petition
No.7741/2020 (*Agricultural Produce Market Committee vs. The
Hon'ble Minister, Urban Development Department and others*)
and other group of petitions, including Writ Petition
No.11220/2021, this Court concluded the issue as regards the

encroachments made by certain people. The said judgment was assailed before the Honourable Supreme Court in Petition for Special Leave to Appeal (C) No.17414/2023. By order dated 21.08.2023, the SLP was dismissed and in addition, the Honourable Supreme Court recorded as under:-

“However, we clarify that the impugned judgment/ order and the dismissal of the present special leave petitions would not come in the way of the Agriculture Produce Market Committee, Ahmednagar, in filing an application for change of the layout plan or for construction of shops in areas where such shops are permitted to be constructed. If any such application is filed, the same would be considered and examined in accordance with law and as expeditiously as possible.

The Agriculture Produce Market Committee, Ahmednagar will be permitted to use open plots in accordance with law.”

2. Since this Court, vide judgment dated 30.06.2023, had directed the compliance report to be filed, the matter was listed before this Court. On 27.10.2023, we issued a direction, which is set out in paragraph 2, as under:-

“2. Considering the direction of the Hon'ble Supreme Court vide order dated 21.08.2023 passed in Special Leave to Appeal No.17414/2023, we grant time to the A.P.M.C. to remove the encroachment/ structure voluntarily and if required the A.P.M.C. can seek assistance of the Municipal Corporation

and apprise the Court about the same on the next date. The Municipal Commissioner of Ahmednagar Municipal Corporation would remain present in the Court on the next date, in view of the communication on the part of the Corporation in not complying with the judgment delivered by this Court on 30.06.2023 in Writ Petition No.7741/2023 which has been upheld by the Hon'ble Supreme Court.”

3. The learned Senior Counsel Shri Dhorde fairly points out to us that the Agriculture Produce Market Committee (APMC) had assailed the above reproduced order dated 27.10.2023 before the Honourable Supreme Court in Special Leave Petition (Civil) Diary No.45937/2023. By order dated 03.11.2023, the Honourable Supreme Court stated that "*We are not inclined to interfere with the impugned judgment and hence, the special leave petitions are dismissed.*"

4. It is thus, obvious that the APMC has to remove encroachments/ structures, voluntarily. The learned Senior Advocates Shri Dhorde and Shri Hon, representing the APMC and Municipal Corporation, respectively, submit that there is no hindrance and they are cooperating with each other.

5. Shri Thigale, the learned Advocate representing the original Petitioners in Writ Petition No.11220/2021, submits that

the Municipal Corporation should not be permitted to protect the encroachment.

6. In view of the above, we would expect the Municipal Corporation to comply with our directions dated 27.10.2023 in the light of the SLP having been dismissed by the Honourable Supreme Court.

7. For the above purpose and to tender a compliance report, which shall be in tune with the judgment of this Court dated 30.06.2023, the order of the Honourable Supreme Court dated 21.08.2023, the directions of this Court dated 27.10.2023 and the order of the Honourable Supreme Court dated 03.11.2023, time is extended till 15.12.2023. The Commissioner of the Municipal Corporation shall note that we would not extend the time even by a day.

8. Place the compliance report before the Court on 18.12.2023. **Place the matter on 18.12.2023 in the urgent orders category.**

9. **The Civil Application No.13506/2023 is disposed off.**