

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2322 OF 2023

Nachiket Yuvak Sangh	...Petitioner
<i>Versus</i>	
U. T. Administration Of Dadra And Nagar Haveli And Daman And Diu And Ors.	...Respondents

Dr. U.P. Warunjikar i/b. Mr. S.A. Pilankar, for Petitioner.
Mr.Hitesh S. Venegaonkar, for Respondent Nos.1 to 3.

CORAM : R.D. DHANUKA &
M.M. SATHAYE, JJ.

DATED : 23rd FEBRUARY, 2023

P.C. :

1. Rule. Rule is made returnable forthwith. Mr.Venegaonkar, learned counsel waives service for Respondents. By consent of the parties, the matter is taken up for final hearing.

2. By this petition, filed under Article 226 of the Constitution of India, the Petitioner has impugned the Notice dated 24th January, 2023 issued by the Respondent No.1 to M/s. Wonder World Resort Ltd. calling upon M/s. Wonder World Resort Ltd. to stop the construction immediately and show cause as to why the said construction should not be removed and/or demolished

within 30 days of issuance of the notice.

3. It is the case of the Petitioner that M/s. Wonder World Resort Ltd. has executed a Release Deed dated 16th January, 2018 in favour of the Petitioner and agreed to release the land along with Sopani Mata Temple admeasuring 1330 Sq. Mtrs. It is the case of the Petitioner that in view of the said Release Deed executed by the M/s. Wonder World Resort Ltd., the Petitioner has derived rights in the said portion of the land / structure. No notice, however, has been issued to the Petitioner by the Respondents about the said structure.

4. Mr. Warunjikar, learned counsel for the Petitioner submitted that M/s. Wonder World Resort Ltd. may not be interested in showing cause to the said notice, in view of the said Release Deed executed in favour of the Petitioner.

5. Since no separate notice is given to the Petitioner who claims right on that portion of the land along with the said structure, we direct the Respondents to issue a separate notice upon the Petitioner to show cause within one week from today.

6. If any such notice is issued to the Petitioner by the

Respondents, the Petitioner would be at liberty to file an reply to the said notice and to produce requisite documents in support of its rival claim in respect of the said portion of land along with the structure without fail.

7. The Member Secretary, Planning and Development Authority, Daman, shall grant personal hearing to the Petitioner by giving 72 hours' clear notice before fixing the date of hearing and shall pass an Order within six weeks from the grant of personal hearing after considering the documents and submissions made by the Petitioner in respect of the show cause notice.

8. An Order that would be passed, shall be communicated to the Petitioner within one week from the date of the passing of such Order.

9. If the Order that would be passed, is against the Petitioner, no coercive steps be taken against the Petitioner for a period of two weeks from the date of communication of such Order.

10. Learned counsel for the Petitioner states that till the proceedings are heard by the Authority and for a period of two

weeks from the date of communication of Order, his client would not carry out any further construction / development work on the said land which is a subject matter of the show cause notice, without prior permission of the Respondents. Statement is accepted.

11. It is made clear that during the pendency of the proceedings before the Authority and for a period of two weeks from the date of communication of Order, no coercive steps be taken against the Petitioner and the offending structure.

12. It is made clear that this Court has not expressed any views on the merits of Petitioner's claim or the notice that would be issued by Respondents and all contentions of the parties are kept open.

13. The writ petition is disposed off in the aforesaid terms. Rule is made absolute. No order as to costs.

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

(M.M. SATHAYE, J.)

(R.D. DHANUKA, J.)