

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 2712 OF 2023

Saiplaza Commercial Premises ... Petitioner
Cooperative Society Ltd.

V/s.

Thane Municipal Corporation and Ors. ... Respondents

Mr. Atul Damle, Senior Advocate a/w. Mr. Suresh Sabrad a/w Mr. Amey Sawant and Ms. Gracy Saldanha for Petitioner.

Mr. Jagdish G. Aradwal (Reddy) for respondent nos. 1 and 2 – Corporation.

**CORAM : A.S. CHANDURKAR &
ABHAY S. WAGHWASE,J.J.**

DATE : 3rd MARCH 2023.

P.C. :

. Considering the nature of order proposed to be passed, service of Court notice on respondent nos. 4 and 5 is dispensed with.

2. The petitioner which is a Co-operative Housing Society is aggrieved by the notice dated 28.02.2023 issued by the Municipal Corporation, by which the Society has been called upon to remove temporary shed that has been affixed on the terrace of the building.

3. According to the petitioner, in view of the complaint made

by the respondent no. 5, the aforesaid notice has been issued. It is urged that a dispute is pending between the Society and respondent no. 5 and hence such steps have been taken by the respondent no. 5.

4. At this stage, it is not necessary to go into the dispute between the petitioner and the respondent no. 5. The impugned notice requires the Society to take action of removal of the temporary shed within a period of seven days. The Society seeks to justify placement of the temporary shed. In these facts the interests of justice would be served by passing the following order:

ORDER

- i) The Society shall within seven days from today to respond to the aforesaid notice dated 28.02.2023.
- ii) The Municipal Corporation shall hear the representatives of the petitioner as well as the respondent no. 5 and thereafter take a decision on the aforesaid notice. If the Society applies for due permission/regularization, the same can be considered in accordance with law. The Corporation shall take a decision in the matter within a period of four weeks of hearing the parties.

iii) Till such decision is taken, the said notice requiring removal of temporary shed shall not be acted upon. The decision taken be communicated to the parties.

iv) If any decision adverse to the Society is taken, no steps shall be taken by the Municipal Corporation for a period of ten days from communication of such order.

v) It is made clear that this Court has not expressed any opinion on the merits of the claim of either parties.

4. With these directions, the Writ Petition is disposed of with no order as to costs.

(ABHAY S. WAGHWASE, J)

(A.S. CHANDURKAR, J)