

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

VAISHALI
ANIL
TIKAM

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 4617 OF 2021

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Sunita Rajendra Karanjakar

...Petitioner

Vs.

State of Maharashtra and Ors.

...Respondents

Ms. Nilima C. Sarvagod for Petitioner

Ms. M.P. Thakur, AGP for Respondent Nos.1 and 2

Mr. S.C. Mangle for Respondent Nos.3 and 4

Mr. Harshad Sathe for Respondent No.5

**CORAM : SUNIL B. SHUKRE &
RAJESH S. PATIL, JJ.**

DATED : 13th JULY, 2023

P.C.:

1. Heard learned counsel for the Petitioner, learned AGP for Respondent Nos.1 and 2, learned counsel for Respondent Nos.3 and 4, and learned counsel for Respondent No.5.

2. Rule. Rule is made returnable forthwith by consent of parties.

3. By this petition, the Petitioner is seeking directions to Respondent No.3, Mahad Nagar Parishad to act upon the order dated 1/11/2018 passed by Respondent No.2, the Collector, Raigad and to take appropriate action on the representation dated 25/11/2019 made by the Petitioner before Respondent No.3.

4. So far as the representation dated 25/11/2019 is concerned, we find that it demands from Respondent No.3 something which primarily falls within the powers of Civil Court and which would first require adjudication of right of respective parties by the Civil Court and till the time that happens, we do not think that Respondent No.3 can take any decision in the matter. After all, the shop-block has been stated to be given to Respondent No.5 by the Petitioner after the death of her husband and now if the petitioner is saying that Respondent No.5 is a trespasser therein, who has managed to take possession of the shop-block by forging some documents, the Petitioner would have to first approach the Civil Court for seeking a declaration about Respondent No.5 being a trespasser having no rights whatsoever in law to occupy the property.

5. Even otherwise, the prayer made in the petition is for dispossession of Respondent No.5 and unless there is a decree passed by the Civil Court for dispossession of Respondent No.5 from the subject shop-block, the Chief Officer or the Municipal Council cannot act in a manner as to amount to doing something without authority of a Civil Court. Therefore, no purpose would be served by issuing any direction to Respondent No.3 to decide the representation of the Petitioner.

6. As regards the prayer for issuing a direction to Respondent No.3 for acting upon the order dated 1/11/2018, we find that the order has already taken effect and by the order, the resolution No.427 has been cancelled. There is no other direction given in the order which would

require its implementation in any manner. So, even the prayer made in this regard is without any basis. Writ petition, is, therefore, dismissed.

(RAJESH S. PATIL, J.)

(SUNIL B. SHUKRE, J.)