

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6443 OF 2023

State Bank of India

....Petitioner

Versus

Pune Municipal Corporation & Ors.

....Respondents

Appearances :

Mr. S C. Wakankar, a/w. P. B. Gujar for Petitioner.

Ms. Manisha Jagtap for Respondent No.1 to 3.

Mr. N. K. Rajpurohit, AG for State.

Mr. Amit Dubey, Law Officer SBI present.

Mr. Subhash Rahate, Chief Manager, SBI present.

**CORAM : DHIRAJ SINGH THAKUR &
SANDEEP V. MARNE, JJ.**

DATE : JULY 12, 2023.

P. C. :

The Petitioner State Bank of India has filed present petition challenging the notice dated April 27, 2023 issued by Pune Municipal Corporation under provisions of Section 53(1) of Maharashtra Regional and Town Planning Act, 1966. The Petitioner has also challenged notice dated October 17, 2022 issued by the Municipal Corporation under provisions of Section 268 of the Maharashtra Municipal Corporation Act, 1949.

2. The dispute in question is with regard to first floor of premises taken by the Petitioner Bank on lease vide lease deed dated December 15, 2020. The lessor represented to the Petitioner that the occupancy certificate dated March 15, 2008 issued by the Municipal Corporation was in respect of the entire building including first floor premises. A copy of the said occupancy certificate dated March 15, 2008 is appended to the lease deed.

3. However it later transpired that the occupancy certificate issued by the Pune Municipal Corporation on March 15, 2008 was restricted to only ground floor premises and same did not cover the construction on the first floor. Since the Petitioner was found to be in occupation of the the first floor premises, which did not have occupancy certificate, Pune Municipal Corporation issued Notice dated September 17, 2022 to the Petitioner under the provisions of Section 268(1)(a) of the Maharashtra Municipal Corporation Act, 1949 calling it upon to stop the use of the premises. Petitioner bank made representation dated October 21, 2022 stating that it was exploring the possibility of obtaining occupancy certificate in respect of first floor premises and requested for some time. Since Petitioner bank failed to vacate the premises for a considerable period of time, the Municipal Corporation issued Notice dated April 27, 2023 to the Petitioner bank under provisions of Section 53(1) of Maharashtra Regional and Town Planning Act, 1966 calling it upon to forthwith stop use of the premises. Petitioner-Bank has filed the present petition challenging Notices dated October 17, 2022 and April 27, 2023.

4. Mr. Wakankar, the learned counsel appearing for the Petitioner Bank would submit that the Bank was hoodwinked by the lessor by representing that the first floor premises were covered by the occupancy certificate. That the owner presented a forged occupancy certificate to the bank, relying on which the Bank executed the lease deed. He would submit that since the factum of non-issuance of occupancy certificate in respect of first floor premises is now brought to the notice of the Petitioner bank, it being a nationalised bank, would not like to continue further in the first floor premises, which does not have occupancy certificate. He would place on record a copy of lease agreement dated June 22, 2023 executed by Petitioner bank with another lessor in respect of alternate premises and would submit that the Bank would need some more time to vacate the premises in question. He would submit that the bank would vacate the premises by October 31, 2023.

5. Ms. Jagtap, the learned counsel appearing for the Municipal Corporation would submit that the factum of non-grant of occupancy certificate in respect of first floor of the premises was brought to Petitioner's notice by the Municipal Corporation on October 17, 2022 by way of issuance of Notice issued under Section 268 of the Maharashtra Municipal Corporation Act, 1949. That the Petitioner-Bank is repeatedly requesting for grant of extensions. She would draw our attention to the order passed by this court on May 24, 2023, when the Petitioner bank had shown willingness to vacate the premises within 6 months. That when the petition come up again on May 26, 2023, the Respondent Municipal Corporation expressed inability to grant extension by 6 months for vacation of the premises. She would therefore

submit that Petitioner bank cannot be granted any further time to vacate the premises.

6. We have considered the submissions advanced before us by the learned counsels appearing for the parties.

7. Perusal of the occupancy certificate annexed to the lease deed dated December 15, 2020 and comparing it with copy of the occupancy certificate produced by Ms. Jagtap would clearly indicate that first floor premises were unauthorizedly added in the copy of the occupancy certificate annexed with the lease deed. This appears to be a case where Petitioner bank was misrepresented by the lessor to the effect that the occupancy certificate covered first floor premises as well.

8. Petitioner bank has already made an alternate arrangement for shifting of the branch by executing lease agreement dated June 22, 2023. It is submitted that the bank is likely to take some more time for furnishing new premises.

9. In the light of the above position we find that the request made by Petitioner Bank for time up to October 31, 2023 for vacation of the premises is reasonable.

10. Writ Petition is accordingly disposed of by permitting the Petitioner Bank to vacate the premises in question up to October 31, 2023. To this limited extent only, the impugned notices issued to Petitioner-Bank shall not be acted upon. This order shall not come in the way of the Municipal

Corporation taking appropriate action against the lessor in respect of unauthorised use of the premises.

SANDEEP V. MARNE, J.

DHIRAJ SINGH THAKUR, J.

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