

Sumedh

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13639 OF 2023**

Ratanshi Premji Charitable Trust	...Petitioners
<i>Versus</i>	
Thane Municipal Corporation & Anr	...Respondent

**WITH
INTERIM APPLICATION (ST) NO. 30358 OF 2023
(NOT ON BOARD)**

Santosh Ramchandra Thakur & Ors	...Applicants
<i>In the matter between</i>	
Ratanshi Premji Charitable Trust	...Petitioner
<i>Versus</i>	
Thane Municipal Corporation & Ors	...Respondents

Mr Nikhil Waje, for the Petitioner.
Mr Prathamesh Sawant, i/b Mandar Limaye, for the Respondent -
TMC.
Mr Sandeep Mishra, for the Intervenor/Applicant in
IA(L)/30358/2023

**CORAM G.S. Patel &
 Kamal Khata, JJ.**
DATED: 2nd November 2023

PC:-

**SUMEDH
NAMDEO
SONAWANE**

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1. The attempt is clearly an abuse of the process of this Court. Prayers (a) and (b), the second being in the alternative to the first, read thus:

“(a) this Hon’ble Court be pleased to call for record and proceedings of order dated 7th June 2022 passed by the Respondent No.2 and after going through its legality and propriety direct the Respondent No.2 to pass further orders thereby demolishing the structures which are constructed without seeking any permission from the Respondent No. 1 corporation upon land bearing old Survey No. 197/33, New Survey No. 100/33 lying and being situate at Village Bhainderpada, Taluka Thane, District Thane within the limits of Thane Municipal Corporation;

In the alternative to prayer clause (a)

(b) this Hon’ble Court be pleased to direct the Respondent No.2 to schedule further hearing in view of letter dated 28th June 2023 sent by the Executive Engineer City Development Department and pass a reasoned order regarding said unauthorized construction as well as execute / implement the same within reasonable time period.”

2. Now it is clear that the Petitioner is fully aware that there are individuals who have put up the structures in question. If the Petitioner is the owner of the survey number mentioned here, then the Petitioner surely is aware of the individuals who are affected by the relief that is sought. Yet we find that these individuals are not even joined as respondents to the Petition. This is all the more surprising because this very Petitioner has filed a suit in the Thane District Court although for different reliefs, namely, an injunction against these structures which are said to be godowns. Indeed, no

individual is joined to this Petition although clearly the reliefs, if granted, will affect individuals and not just the Municipal Corporation.

3. We do not know how we are expected to grant urgent ad-interim reliefs in this fashion. There is already an Interim Application for intervention. There are three Applicants here and it is also pointed out to us that the subject matter of Regular Civil Suit No. 253 of 2022 in the Court of the Civil Judge Senior Division at Thane was also survey No. 197/33 of village Owale, i.e., the same property that is the subject matter of the Writ Petition. To the Civil Suit, there were as many as 30 individuals joined as defendants. Not a single one is joined as a respondent to the present Writ Petition. This is why we believe this Writ Petition is nothing but a deliberate attempt to abuse the process of this Court.

4. In this context, the Supreme Court in *Dalip Singh vs State of UP*¹ referring to *KD Sharma v SAIL*² and *G Jayashree v Bhagwandas S Patel*³ reiterated that the jurisdiction of the High Court under Article 226 of the Constitution of India is extraordinary, equitable and discretionary, and it is imperative that the Petitioner approaching the Writ Court must come with clean hands putting forward all the facts before the Court without concealing or suppressing anything to seek an appropriate relief. If there is no candid disclosure of relevant and material facts or the petitioner is

1 (2010) 2 SCC 114.

2 (2008) 12 SCC 481.

3 (2009) 3 SCC 141.

guilty of misleading the Court, his petition may be dismissed at the threshold without considering the merits of the claim.

5. We are now told that the suit was filed for injunction because there are unauthorised constructions. That is all the more reason that the individuals ought to have been joined as respondents. We reject the application for an amendment to join them now. This is nothing but an attempt to take the chance and gamble on litigation which we do not permit. We refuse the application to join persons now after all this is pointed out.

6. The Writ Petition is rejected. In view of the dismissal of Writ Petition, the Interim Application does not survive and the same also stands disposed of.

(Kamal Khata, J)

(G. S. Patel, J)