

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1269 OF 2019

Manisha Chavan

.. Petitioner

Vs.

The State of Maharashtra & Ors.

.. Respondents

- Ms Sunita S. Banis, for the Petitioner.
- Mr. Manish Upadhye, AGP for Respondent No.1.
- Mr. Ajit Kenjale a/w. Ms Pooja Yadav i/b. Mr. Sunil Sonawane, for Respondent Nos.2 to 7-BMC.

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

DATE : 31st JULY, 2023.

ORAL JUDGMENT : (PER : SUNIL B. SHUKRE, J.)

1. Heard. Rule. Rule made returnable forthwith, by consent of learned counsel for the respective parties.

2. The contention of the Petitioner that after obtaining due permission for construction of a toilet inside her hut from the Corporation under Swacch Bharat Abhiyan, the petitioner had started construction of a toilet if not inside her hut, but just adjacent to her hut and then suddenly the offices of the Corporation intervened and demolished that structure.

3. Learned counsel for the petitioner submits that such an action on the part of the Corporation is illegal, as there is a report of the Engineer of the Corporation itself stating that since there was no sewage line which can be connected to a toilet constructed inside the hut, the toilet could be constructed on a land adjacent to the hut. She also submits that this land is a Collector land and consistent with the object of the scheme, the construction made by the petitioner ought not to have been demolished by the Corporation. She also submits that it is necessary that the toilet is now reconstructed by the Corporation and its possession handed back to the petitioner.

4. Learned counsel for the Corporation submits that the permission was granted for construction of a toilet inside the hut and not on the land adjacent to the hut. He further submits that even if the petitioner was to construct a toilet on the land adjacent to the hut, it was required of the petitioner to submit ownership documents to the Corporation and for that purpose, sufficient opportunity was granted to the petitioner, but the petitioner did not avail of it.

5. While it is true that there is no embargo under the scheme on construction of a toilet on the open land, the fact remains that no toilet can be constructed without grant of development permission of the Corporation. If any development permission is to be granted by the Corporation, the Corporation would be justified in insisting upon a

person seeking such permission to produce the ownership documents. If the ownership documents are not produced by the person interested in construction of a toilet, the Corporation would have right to refuse the permission or demolish whatever construction has been made in violation of the Development Control & Promotion Regulation (DCPR).

6. In the present case, the petitioner is interested in construction of a toilet on open land adjacent to the hut under occupation of the petitioner. There are no documents, admittedly, submitted by the petitioner showing her right of ownership or occupation of the open land adjacent to hut. If that is the case, we do not think that the action so far taken by the Corporation is illegal. We thus find no merit in the petition and the same is dismissed.

[RAJESH S. PATIL, J.]

[SUNIL B. SHUKRE, J.]