

Ashwini

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1278 OF 2022**

AH Wadia Trust & Ors ...Petitioners
Versus
State of Maharashtra & Ors ...Respondents

**Christine Rewrie, with Unnati Bane, i/b LR & Associates, for the
Petitioners.**

Ms Pooja Yadav, for the Respondent-MCGM.

Mr Amit Shastri, AGP, for the Respondent-State.

**CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 13th October 2023**

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PC:-

1. The Petitioner trust complains of an illegal construction on the Petitioners' land. Ms Yadav tells us on the basis of an Affidavit in Reply that there is a status quo order passed by the City Civil Court in LC Suit No. 8098 of 2021. The Petitioner trust does not appear to be made a party to that proceeding in a City Civil Court.

2. We exercise our discretion and direct that the Petitioner trust will be joined as a party defendant to LC Suit No. 8098 of 2021 without requiring a formal application to be made to that Court. The Petitioners are then entitled to make an appropriate application to

that Court. The amendment is to be permitted by the Registry of the City Civil Court Mumbai upon production of an authenticated copy of this order and without requiring reverification. No further application or order is required for the purposes of that amendment.

3. We exercise our discretion because it seems to us undoubtedly necessary that the owner of the land is made a party to a proceeding where an occupant of a structure on that land claims protective orders and claims that his or her structure is not liable to removal and is not illegal.

4. Ms Yadav also states that despite the status quo order the Plaintiffs in that Suit have carried out massive further construction.

5. It is open to both the MCGM and the present Petitioner trust to make an appropriate application to the City Civil Court including pointing out that the orders of status quo have been violated and therefore, that order stand vacated.

6. The Writ Petition is thus disposed of with these observations and directions, keeping all contentions open between the parties in the City Civil Court.

(Kamal Khata, J)

(G. S. Patel, J)