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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

928 WRIT PETITION NO.12452 OF 2022
WITH
CIVIL APPLICATION NO. 15495 OF 2023

MOHD. AREF ABDUL RASHID AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS PRINCIPAL
SECRETARY AND OTHERS

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Mrs S. A. Dhumal(Tambat), Advocate for Petitioners/Applicants;
Mr R. S. Wani, A.G.P. for Respondent No.1
Mr A. R. Vaidya, Advocate for Respondent Nos.2 to 4

**CORAM : RAVINDRA V. GHUGE
AND
R. M. JOSHI, JJ.**

DATE : 15th March, 2024

PER COURT:

1. The Petitioners have prayed in the Petition below
prayer Clauses (C), (D) and (E), as under :-

“C. By issue of writ of Mandamus or any other appropriate writ, order or direction in the nature of Mandamus, respondents no. 2 to 5 may kindly be directed to decide representation dated 28/11/2022 submitted by the petitioners within stipulated time;

D. By issue of writ of Mandamus or any other appropriate writ, order or direction in the nature of Mandamus, it be declared and hold that the proposed action of demolition of the writ properties of the petitioners situated at Hamalwadi, Railway Station, Aurangabad, more particularly described as CTS No. 19267, 19268, 19269, 19281 admeasuring 241.20 sq.m., 18.30 sq.m., 301.7 sq.m., & 172.50 sq.m. respectively.: is null, void, illegal and

(2)

against the procedure laid down under the provisions of Maharashtra Town Planning Act, 1966.

E. Pending hearing and final disposal of this writ petition, this Hon'ble High Court may kindly be pleased to restrain from taking any coercive action against the writ properties owned and possessed by the petitioners, more particularly described as CTS No. 19267, 19268, 19269, 19281 admeasuring 241.20 sq.m., 18.30 sq.m., 301.7 sq.m., 172.50 sq.m. respectively situated at Hamalwadi, Railway Station, Aurangabad.”

2. The Respondent/Corporation proceeded to demolish the purported encroachment structure by virtue of the notice issued prior to the filing of the Writ Petition. The photographs are placed before us, which indicate that, a large lane has practically got narrowed down and become a bottleneck near the demolished portion of the structure. The demolition has cleared the lane to quite an extent.

3. The grievance of the Petitioner is that, the Corporation is of the belief that the encroachment is on the West and North side and the demolished property of the Petitioner is on the East side. It is further stated that the Petitioner had received a notice dated 10/06/2023. The learned Advocate for the Petitioners submits that, the Petitioners have responded to the said notice and tendered documents to the Corporation. The learned Advocate for

(3)

the Corporation submits that, reply or documents have not been tendered to the Corporation.

4. We do see that the civil rights of the Petitioners are involved and there are several disputed issues. Nevertheless, ends of justice would be met if the Petitioners are permitted to tender their written reply to the said notice dated 10/06/2023, along with documents, on or before 23/03/2024.

5. As such, the Petitioners are permitted to tender their written reply to the said notice dated 10/06/2023, along with documents, on or before 23/03/2024. The Corporation shall consider the reply and the documents and pass a reasoned order on or before 28/03/2024. Thereafter, if the Petitioners' grievance is not redressed, they would be at liberty to file a civil suit for the redressal of their grievance.

6. With the above directions, **this Writ Petition as well as the Civil Application, are disposed off.**

(R. M. JOSHI, J.)

(RAVINDRA V. GHUGE, J.)

sjk