

Sumedh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 15451 OF 2023

Savinderkaur Satpalsingh ...Petitioner
Versus
Ulhasnagar Municipal Corporation & Anr ...Respondents

Mr Girish Agrawal, for the Petitioner.
Mr Suresh M Kamble, for Respondent No 1.
Mrs MP Thakur, AGP, for Respondent No 2-State.

CORAM G.S. Patel &
Kamal Khata, JJ.
DATED: 17th January 2024

PC:-

1. Affidavit in Reply is taken on Record.

2. Rule. Rule made returnable forthwith. The prayer (b) of the Petition reads thus:

“(b) Hon’ble Court be pleased to quash and set aside the impugned communication of Stop Work Notice dated 22/11/2023 bearing Outward No.UMC/TPD/SA/310/23/CONST/44/21 issued by the Respondent No.1. (Exhibit-G).”

3. The facts are not in dispute. The only reason that the stop work notice was issued is because the Ulhasnagar Municipal Council insists that there is an 18-meter wide Development Plan (“**DP**”) Road which has been, according to it, illicitly taken into the development proposed by the Petitioner.

4. What is not explained is that the proposal was approved by the Ulhasnagar Municipal Corporation itself. A separate plinth construction approval then followed as recently as 31st October 2023. The further Affidavit points out that the Petitioner has obtained from the City Survey Officer a clarification that there is no DP Road at all. Now it is suggested on behalf of the Ulhasnagar Corporation that it has since written once again to the CSO to clarify whether there was a DP Road in some previous development plan — of 1974. The entire query of the Ulhasnagar Municipal Council is misconceived. If there was a DP Road, the first authority that would have known about it would be the planning authority, namely the Ulhasnagar Municipal Corporation. Had it known about it, it would have seen that such a DP Road is part of the Petitioner’s proposal, and it would never have sanctioned the proposal nor approved the plinth construction. If there is any ambiguity about this, it is set to rest by the clarification that the Petitioner has obtained.

5. There is no question of the Ulhasnagar Municipal Council now maintaining that there is a DP Road when it is unable to show this on any currently applicable development plan and when the other authority, namely the City Survey Officer, confirms that there

is, in fact, no DP Road. We cannot understand why the Ulhasnagar Municipal Corporation has thought it fit to engage in some historical exercise of going back 50 years in time to find out if there was once upon a time a DP Road. That is not a procedure that we are inclined to allow. It is entirely arbitrary. It smacks of mala fides.

6. The stop work notice is quashed and set aside. Rule is made absolute in terms of prayer clause (b). There will be no order as to costs.

(Kamal Khata, J)

(G. S. Patel, J)