

Ashwini

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9129 OF 2024

Vinaya Vijay Joshi & Anr ...Petitioners
Versus
The State of Maharashtra & Ors ...Respondents

Mr Abhijeet Sj Kandarkar, for the Petitioners.
Mr Vijay Killedar, for Respondent No. 5.
Mr AA Alaspurkar, AGP, for the Respondent-State.

CORAM M.S. Sonak &
Kamal Khata, JJ.
DATED: 10th July 2024

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PC:-

1. Heard learned Counsel for the parties.
2. The Petitioners have made complaints dated 22nd October 2019, 24th October 2019, 11th November 2022, 28th February 2023 and 8th May 2024 to Respondents Nos. 2, 3 and 4 about some illegal constructions undertaken by the 5th Respondent.
3. Learned Counsel for the Petitioners states that despite the several complaints, parties are not taking any action and the 5th Respondent continues with the illegal constructions. Learned Counsel for the Petitioners places on record a communication dated

21st June 2024 addressed by the Tehsildar requiring the 5th Respondent to stop work at the site until further investigations.

4. Learned Counsel for the 5th Respondent, on instructions states that one Vidyadhar Palande had also filed a complaint before the Tehsildar and the Tehsildar is now seized of the complaint. The learned Counsel for the 5th Respondent placed on record a notice dated 22nd May 2024 which shows that the Tehsildar has initiated action under Sections 52, 53 and 54 of the Maharashtra Regional Town Planning Act .

5. Accordingly, we direct Respondents Nos. 2, 3 and 4 to take cognizance of the Petitioners complaints and to dispose of such complaints in accordance with law and on their own merits within three months from today, i.e., on or before 3rd October 2024. Respondents Nos. 2, 3 and 4 should grant opportunity of hearing to the Petitioners and the 5th Respondent and pass a reasoned order. If any of the parties are aggrieved by the reasoned order, they are at liberty to challenge the same in accordance with law.

6. Similarly, now the Tehsildar has taken cognizance of the complaints made by the Petitioners and Vidyadhar Palande, the Tehsildar must proceed with the proposed action and endeavour to dispose of the same as expeditiously as possible and in any event on or before 3rd October 2024.

7. The Petitioners are granted leave to appear before the Tehsildar in the proceedings which are subject matter of notice

dated 22nd May 2024 and place an authenticated copy of the order before the Tehsildar. The Tehsildar must also comply with principles of natural justice and fair play.

8. For the present, we are not going into the rival contentions of whether the constructions being undertaken by the 5th Respondent are legal or not. These are matters which the authorities including the Tehsildar must examine in the first instance. Therefore, all contentions of all parties in this regard are expressly kept open. However, until the stop work order is revoked by the Tehsildar, the 5th Respondent must not undertake any further constructions.

9. The Petition is disposed of with the above directions. There shall be no order for costs.

10. All concerned to act on an authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)