

Wadhwa

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 9816 OF 2024

Hisamuddin Cheddu Shaikh ...Petitioner
Versus
Bhiwandi Nizampur City Municipal Corporation ...Respondents
and Ors

Ms Anita Bhaktwani, *for the Petitioner.*
Mr NR Bubna, *for Respondent No.1.*
Ms Sadhna Singh, *for Respondent No. 4.*

CORAM M.S. Sonak &
Kamal Khata, JJ.
DATED: 19th July 2024

PC:-

1. Heard learned counsel for the parties.
2. The learned counsel for the Petitioner submits that the 1st Respondent Corporation has already issued a demolition notice against certain illegal constructions undertaken by Respondent Nos. 3 to 7. However, she submits that the Corporation is not executing its own demolition order dated 31 August 2023.
3. Mr Bubna, the learned counsel for the Corporation, and Ms Sadhna Singh, the learned counsel for the 4th Respondent, submit that the 4th Respondent has filed a Regular Civil Suit No. 358 of

2023 before the Civil Judge, Junior Division at Bhiwandi challenging the Corporation's demolition order. They point out that in this Civil Suit, the learned trial Judge has directed the parties to maintain the status quo. As a result, the Corporation cannot execute its demolition order dated 31 August 2023.

4. The learned counsel for the Petitioner complains that despite the status quo order, Respondent Nos. 4 to 7 are proceeding with the unauthorised construction and even creating third-party rights. The learned counsel for the fourth Respondent states that the construction is stopped, given the status quo order. This statement is accepted.

5. Even otherwise, since the status quo is ordered, the Respondent Nos. 3 to 7 should not proceed with the construction. The status quo means that the Corporation should not execute its demolition order, and at the same time, Respondent Nos. 3 to 7 must not continue with their construction until the application for interim relief is disposed of.

6. The learned counsel for the Petitioner submits that the construction of a large building is undertaken without any permission from the Corporation. Mr Bubna, the learned counsel for the Corporation, also submits that this entire construction is proceeding without any permission from the Corporation. From the photographs annexed to the Petition, this appears to be a large structure, and we are quite surprised how such a structure is proceeding without any permission from the Corporation.

7. Still, now that the trial Judge has issued a status quo order, we cannot direct the Corporation to execute its demolition order dated 31 August 2023. We direct the learned trial Judge to dispose of Respondent No. 4's application for interim relief following the law and on its own merits as expeditiously as possible and, in any event, within four weeks of the Corporation placing an authenticated copy of the order before the trial Judge.

8. Mr Bubna states that if the Corporation has not filed its reply to the application for interim reliefs, it will be filed within a week from today. Even the 4th Respondent should not delay the hearing on the application for interim reliefs. The trial Court should also not grant any undue adjournments to the 4th Respondent.

9. If the trial Court ultimately vacates the interim order, the Corporation must expeditiously execute its demolition order dated 31 August 2023.

10. With the above directions, this Petition is disposed of.

11. There should be no order for costs.

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

(Kamal Khata, J)

(M.S. Sonak, J)