



Darshan Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 10218 OF 2024

Izharulhaq Siddiqui and Ors. ...Petitioners
Versus
The State of Maharashtra and Ors. ...Respondents

Mr Sandesh Deshpande, *for the Petitioners.*
Ms Rupali Shinde, *AGP, for the Respondent-State.*
Mr Mandar Limaye, *for Respondent Nos. 2 to 4/TMC.*

CORAM M.S. Sonak &
Kamal Khata, JJ.
DATED: 22nd July 2024

PC:-

1. Not on board. Upon mentioning take on board.
2. Heard learned counsel for the parties.
3. This petition challenges the impugned notices dated 08 July 2024 issued by the Thane Municipal Corporation (“TMC”), which require the petitioners to vacate the suit structure, regarding which there was already a notice of demolition made way back on 25 March 2019.
4. Significantly, the demolition order dated 25 March 2019 is not challenged in this petition. This is because the demolition order

dated 25 March 2019 was made after the petitioners were given show-cause notice, and the TMC duly considered the cause shown by them. As against the demolition order dated 25 March 2019, the petitioners had instituted Regular Civil Suit No. 397 of 2019 before the Civil Judge Junior Division at Thane. This suit has been dismissed, and no further proceedings have been taken regarding the demolition order dated 25 March 2019.

5. The impugned notice dated 08 July 2024 merely seeks to implement the demolition order dated 25 March 2019. Because there was a delay in implementation, the complainant, based on whose complaint the demolition notice was made, had instituted a Writ Petition in this Court. This Writ Petition was disposed of by directing the TMC to consider the complainant's grievances. Since the TMC did nothing in the matter, the complainant instituted Contempt Petition No. 72 of 2020. At this stage, learned counsel for the TMC stated that the complaint's grievances would be addressed, and his representation would be disposed of. The TMC has merely proceeded to implement its demolition order dated 25 March 2019, which has already attained finality. Therefore, no case is made to sustain the challenge to the impugned notices dated 08 July 2024, which are merely consequential to the final demolition notice dated 25 March 2019.

6. Learned counsel for the petitioners contended that the petitioners are entitled to the Cluster Redevelopment Scheme. He submitted that some of the members of the proposed society have also applied for this scheme, and the TMC has extended such benefits to them. The learned counsel for the petitioner also submitted that such benefits are extended to the petitioner.

7. If the petitioners' learned counsel is correct, this aspect must still be considered independently. However, until this issue is decided, there is no question of stalling the execution of the final demolition order dated 25 March 2019. If the issue is already decided, as claimed by the learned counsel for the petitioner, the demolition cannot still be stalled. Ultimately, the benefit of the redevelopment scheme is obtained only after the original buildings are demolished and taken up for redevelopment. Therefore, there is no point in mixing or confusing these two issues.

8. For the above reasons and by specifically keeping open the petitioners' claim regarding benefits under the Cluster Redevelopment Scheme, we dismiss this Writ Petition. There shall be no orders as to the costs.

(Kamal Khata, J)

(M.S. Sonak, J)