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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 11215 OF 2024

Bhushan Baldev Khatri and Anr. ...Petitioners
Versus
Municipal Corporation of City of Ulhasnagar and ...Respondents
Ors.

Mr A R Gole, for the Petitioners.
Mr Vijay D Patil, for Respondent No.1 (UMC).
Mr A S Rao, for Respondents 3 and 4.
Ms R M Shinde, AGP, for the Respondent-State (Respondent No.2).
Mr Bhushan B Khatri, Petitioner No.1 is present.

CORAM M.S. Sonak &
Kamal Khata, JJ.
DATED: 14th August 2024

PC:-

1. Heard learned counsel for the parties.
2. On 08 August 2024, we were persuaded by respondents 3 and 4 to allow them to demolish the subject building by depositing an amount of Rs.5 Lakhs by way of security. This amount was to be deposited by 12 August 2024 failing which we had directed the Ulhasnagar Municipal Corporation ("UMC") to proceed with the demolition without waiting for any further direction.
3. Despite the solemn statement made before us and for the excuses set out in today's affidavit which are most unsatisfactory,

respondents 3 and 4 have gone back upon their solemn statement and failed to deposit the amount of Rs.5 Lakhs in this Court. Mr Rao, on instructions, now makes a statement that respondents 3 and 4 are not in a position to deposit Rs.5 Lakhs or to carry out demolitions.

4. Considering the above developments, in terms of our order dated 08 August 2024, we would have permitted the UMC to proceed with its demolition of the building but Mr Gole learned counsel for the petitioners states that the petitioners had instituted this petition with a plea that they should be allowed to carry out the demolition instead of the UMC carrying out such demolition. He submits that only because respondent No. 3 who is a younger brother of the 1st petitioner had offered to carry out the demolition, the petitioners did not press for reliefs sought by them in their petition.

5. Mr Gole submits that the petitioners, if permitted, will now carry out the demolition of the subject building on or before 25 September 2024 without seeking any further extension of time. Mr Gole, on instructions, submits that after every 2 weeks, the petitioners will file and serve a compliance report showing the status of demolition. If the UMC finds that the work is not proceeding at the desired pace liberty is granted to the UMC to move the Court.

6. Mr Gole states that the petitioners will deposit the amount of Rs.5 Lakhs in this Court by 16 August 2024 as a security for completing the demolition and clearing the debris by 25 September 2024. The statements now made by Mr Gole on the

express instructions of the petitioners including the 1st petitioner who is present in the Court are accepted as undertaking to this Court. The petitioners have to abide by such undertakings.

7. Only because it is pointed out by Mr Rao that the 3rd respondent is unwell and admitted to the hospital, we refrain from imposing any costs on these respondents. Otherwise, we are convenience that the statements were made by respondents 3 and 4 without having the means and capacity to comply with such statements. Respondents 3 and 4, it appears had neither intention nor means to comply with such statements. Therefore, we now relieve respondents 3 and 4 of the undertakings given to this Court based upon which we proceeded to make the order dated 08 August 2024.

8. The petitioners will have to file a final compliance report by 03 October 2024 along with photographs. The UMC should also file its compliance report confirming whether the demolition is carried out and the debris from the site is cleared.

9. List this matter on 09 October 2024 to consider the compliance report.

(Kamal Khata, J)

(M.S. Sonak, J)