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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12904 OF 2024

Mahendraprasad Achehelal Gupta ...Petitioner
Versus
Bhiwandi Nizampur City Municipal Corporation ...Respondents
and Anr.

Mr Devendra B Shukla, for the Petitioner.

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

PC:-

- 1.** List this matter on **11th September 2024**.
- 2.** The Petitioner must serve fresh notice on the Bhiwandi Nizampur City Municipal Corporation and file an affidavit of service.
- 3.** We want to clarify that we have not granted any ad-interim relief in this matter.
- 4.** The learned counsel for the Petitioner presses for ad-interim relief. He states that no show cause notice was served upon the Petitioner. The impugned order refers to a show cause notice being served upon the Petitioner and the Petitioner not responding to the same or remaining present for the hearing.

5. The Petition has no clear statement about non-service of show cause notice. The allegations are vague, claiming that the action of the Corporation is high-handed. No ad-interim relief can be granted based on such vague and unclear allegations.

6. The learned counsel did refer to a permission dated 5th March 2011, which relates to the ground plus three structure building. However, there was no clarity about whether this permission relates to the building in question. The impugned order states that the entire building is unauthorised. The building has ground plus five stories. Therefore, according to the Petitioner, the fourth and fifth stories are illegal. In any event, the learned counsel for the Petitioner cannot say whether the Petitioner has any occupancy certificate for occupying the flat. In all probabilities, since the structure is stated to be illegal by the Corporation, there may not be any Occupancy Certificate.

7. Prima facie, there are orders made by this Court based on which the Corporation is taking action. These orders were made in a Petition filed by Mr. Juber Shaikh, the complainant pursuing the illegal construction of this building and the Corporation's inaction in demolishing it. The Petitioner has cleverly chosen not to implead Mr. Juber Shaikh as Respondent in this Petition.

8. For all the above reasons, no ad-interim relief can be granted. Still, we are posting the matter tomorrow, **11 September 2024**, to ascertain the Corporation's version.

(Kamal Khata, J)

(M.S. Sonak, J)