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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13622 OF 2024

Parmanand Kukreja ...Petitioner
Versus
Ulhasnagar Municipal Corporation and Ors. ...Respondents

Mr Mandar Limaye, a/w Ashutosh Gade, for the Petitioner.
Ms Rupali Shinde, AGP, for the Respondent-State.
Ms Minal Chandnani, for Respondent No.4.
Mr Vijay Patil, for Respondents 1 to 3 (UMC).

CORAM **M.S. Sonak &
Kamal Khata, JJ.**
DATED: **01 October 2024**

PC:-

1. Not on board. Upon mentioning taken on board.
2. Heard learned counsel for the parties.
3. The petitioner had instituted an appeal against the order dated 21 June 2024 before the State Government on 28 June 2024. The petitioner also applied for a stay on the execution of the demolition order.
4. Now, the petitioner's case is that the appellate authority, i.e., the Hon'ble Minister of Urban Developer, is not taking up

the case for final disposal or even considering the application for interim relief.

5. Mr Limaye states that in the meantime, the Ulhasnagar Municipal Corporation (“**UMC**”) insists on proceeding with the demolition under the order dated 21 June 2024. He points out that on 23 September 2024, the UMC served notice on the petitioner requiring the petitioner to remove the belongings within two days so the demolition could proceed. Mr Limaye contends that until the petitioner’s appeal is disposed of, or at least until the petitioner’s application for interim relief is disposed of, the UMC must restrain from executing its demolition order dated 21 June 2024.

6. Ms Chandnani, learned counsel for respondent No.4 (Complainant), points out that everything about the building constructed by the petitioner is illegal and unlawful. She points out that attempts at regularisation have also failed. She pointed out that the petitioner, by undertaking illegal construction, has converted the basement of this building into a ‘Pub’. She submitted that several other illegalities in the construction were ordered to be demolished. Therefore, she submits that the discretionary equitable jurisdiction of this Court should not be exercised to enable the petitioner to perpetuate illegalities.

7. Since the petitioner’s appeal is pending and has not been taken up even to consider the application for interim relief, some protection can be granted to the petitioner pending the disposal of the appeal. However, Ms Chandnani

learned counsel for the 4th respondent is justified in submitting that by this Court granting the interim relief, the petitioner should not be facilitated to continue with the prima facie exploitation of the illegalities carried out by the petitioner. As a result of any interim relief by this Court, the petitioner would continue to use the basement as a Pub even though the UMC has held that such users and construction put up for such users are illegal and unauthorised. At least the Writ Court will not lend any assistance for the perpetuation of prima facie illegalities.

8. Mr Limaye, on instructions from the petitioner, states that the petitioner, without prejudice to his contention in the appeal and to show his bonafide, will immediately shut down the Pub and all other activities in the basement. This statement is accepted as an undertaking on behalf of the petitioner.

9. Based on the above undertaking and the fact that the petitioner's appeal is pending before the Hon'ble Minister of Urban Development, we restrain the UMC from executing its demolition order dated 21 June 2024 until disposal of the appeal before the Hon'ble Minister.

10. The complete closure of the Pub or all commercial activities in the basement shall abide by the final order in the appeal. The UMC must ensure that the Pub remains closed. If, for any reason, the same is opened, then the limited protection granted by this Court will stand vacated, and the

UMC will be free to execute its demolition order dated 21 June 2024.

11. Mr Limaye states that the 4th respondent will be impleaded as a respondent-party in the appeal pending before the Hon'ble Minister within a week from today. This statement is also accepted.

12. We direct that the appeal be disposed of within two months of today after hearing the petitioner, fourth respondent, and UMC or their advocates.

13. All parties' contentions are left open to be decided by the appellate authority by following the law. This petition is disposed of in the above terms without any orders for costs.

14. All concerned to act on the authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)