



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 13755 OF 2024

1. **ROSHANLAL GURMUKHDAS REKHI**,
Age-95 years, off Panvel, Indian
Inhabitant, residing at-R.C.S. No.
1550/1, 1550/A, Chandoniketan,
Shivaji Road, Panvel-410206.
2. **BRJMOHAN R. REKHI**,
Age-73 years, off Panvel, Indian
Inhabitant, residing at-R.C.S. No.
1550/1, 1550/A, Chandoniketan,
Shivaji Road, Panvel-410206.
3. **MR SACHIN BRJMOHAN REKHI**,
Age-45 years, off Panvel, Indian
Inhabitant, residing at-R.C.S. No.
1550/1, 1550/A, Chandoniketan,
Shivaji Road, Panvel-410206.

...PETITIONERS

~ versus ~

1. **THE PANVEL MUNICIPAL CORPORATION**,
Taluka-Panvel, District-Raigad,
Maharashtra-410206.
2. **DESIGNATED OFFICER, WARD
COMMITTEE D**,
Panvel Municipal corporation,
having its office at Panvel,
District-Raigad
Maharashtra-410206.

...RESPONDENTS

APPEARANCES

FOR THE PETITIONERS

Adv Vishal Kanade, with Adv
Ashwin Bhadang, Adv Neha
Patil, i/b Adv. Saakshi Jha.

FOR RESPONDENT NOS.1 AND 2-PMC **Mr Rohit Sakhadeo.**

**CORAM : M. S. Sonak &
Kamal Khata, JJ.**

DATED : 4 October 2024

ORAL JUDGMENT (Per M S Sonak J):-

1. Not on board. Upon mentioning taken on board.
2. Heard learned counsel for the parties.
3. Rule. The Rule is made returnable immediately at the request of and with the consent of the learned counsel for the parties.
4. The challenge in this Petition is to the notice dated 6 September 2024 made by Panvel Municipal Corporation ("PMC") requiring the Petitioners to demolish the illegal construction allegedly undertaken by the Petitioners.
5. Mr Kanade, learned counsel for the Petitioners, submits that any show cause notice did not precede the impugned order. He submits that even the impugned notice is vague in

as much as it does not refer to which portion of the construction is alleged to be illegal and unauthorised. Accordingly, Mr Kanade submits that the impugned notice dated 6 September 2024 should be set aside for failure of natural justice and vagueness.

6. Mr Sakhadeo, learned counsel for PMC, states that on 30 August 2024, a notice was given to the Petitioners, and they were requested to remain present at the site. However, the Petitioners chose not to remain present at the site and, therefore, cannot now complain of the failure of natural justice.

7. We have perused the notice dated 30 August 2024. This notice primarily proceeds on the basis that the Petitioners' structure is dilapidated. This notice also refers to a structural audit report in support of such an eviction. There is a reference to inspection of unauthorised construction, i.e., construction over and above the construction approved by the initially sanctioned plan. But this notice does not clearly state that it is a show cause notice in the context of the unauthorised extension allegedly carried out by the Petitioners.

8. In our judgment, the interest of justice would be met if the impugned notice dated 6 September 2024 is directed to be treated as a show cause notice to the Petitioners. Mr Sakhadeo states that under the notice dated 30 August 2024, the PMC officials inspected the construction on 4 September 2024. He

says the inspection memo would be provided to the Petitioners by 12 October 2024. If the PMC has any other material to show that the extension carried out by the Petitioners is illegal and unauthorised, even the same will be supplied to the Petitioners by 12 October 2024.

9. The notice dated 6 September 2024 and the above material supplied to the Petitioners by 12 October 2024 would give them a fair idea of the allegation now being made against them. Besides, the Petitioners are expected to have the sanctioned plans. The Petitioners are also expected to produce material to show that the structure at the site completely aligns with the sanctioned plan and that there is no illegal extension, as alleged by the PMC. All of this will substantially meet with compliance with the principles of natural justice.

10. The Petitioners should file a reply by 22 October 2024 at the latest. After receiving the reply, the PMC should grant the Petitioners a hearing on 24 October 2024 at 11:00 a.m. After considering the Petitioners' response and hearing them, the PMC should make and communicate its decision to the Petitioners on or before 14 November 2024.

11. If the PMC makes an adverse order, the PMC should not act on this order for two weeks from the date of its communication.

12. All parties' contentions are left open because this Court has not entered into the merits of the controversy between the parties.

13. The Rule is disposed of in the above terms without any cost order.

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

(Kamal Khata, J)

(M. S. Sonak, J)