

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.18720 OF 2024

SATISH
RAMCHANDRA
SANGAR

Satish Maruti Indure and Ors.

...Petitioners

V/s.

Nagar Parishad, Karmala

Through its Chief Executive Officer

...Respondents

Mr.Rahul Kadam i/b. Mr.Shardul Diwan:-

Advocate for Petitioners.

CORAM : S. M. MODAK, J.

DATE : 20th DECEMBER 2024

P. C. :-

1. Heard learned Advocate Shri.Kadam for Petitioners-Plaintiffs.
2. As directed on the last date, private service is effected on the Respondents. Affidavit is taken on record. Today, no one has appeared.
3. The Petitioners have failed before the trial Court in getting interim prohibitory injunction. They have also failed before the Appellate Court. The Appellate Court has dismissed the Appeal on 5th December 2024 (Page No.118). However, the Appellate Court has extended the stay for a period of 15 days as per the order dated 5th December 2024 (Page No.121). Today, the said period expires.

4. Learned Advocate Shri.Kadam has invited my attention to the notice on Page No.22 onwards. They are issued to individual Petitioners-Plaintiffs. There is a reference of Section 179 of the Maharashtra Municipal Councils, Nagar Panchayats and Industrial Townships Act, 1965.

5. The contention of Mr.Kadam is as follows:-

- (a) In a given set of facts, notice under Section 179 of the said Act cannot be given because the structures involving in the said suit are not standing on a public street. He has shown to me photos on Page No.173 to Page No.181 of the private paper-book. The paper-book is taken on record.
- (b) According to him, these structures are standing on a private land and merely because, non-agricultural use is permitted, automatically, the land does not become a public street.
- (c) He also relied upon the provisions of Section 174 of the said Act. It empowers the Council to declare a street as a public street after following the procedure. According to him, it is not followed.
- (d) The impugned notices do not mention about the structures erected without permission.

6. The Respondents need to be given some time to appear and contest this Petition. These structures are in existence since more than 20 years. Certain protection is required till next date. The Appellate

Court, at the time of issuing notice on 9th October 2024 has restrained the Respondents from demolishing the shops of the Appellants-Petitioners for a limited duration. This stay was extended by the Appellate Court after dismissal of the Appeal. So, let the same injunction be continued till next date.

7. The Respondents may be informed about this order by all the modes available and Affidavit be filed on the next date.

8. In view of that, stand over to 11th February 2025.

[S. M. MODAK, J.]