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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6669 OF 2023

Navnath Shraddha Co-operative Housing Society Ltd. ...Petitioner

Versus

Kalyan Dombivali Muncipal Corporation & Ors. ...Respondents

WITH

REVIEW PETITION NO. 83 OF 2024

IN

WRIT PETITION NO. 6669 OF 2023

Mr. Vaibhav Namdev More & Ors. ...Review
Petitioners

In the matter between

... Petitioner

Navnath Shraddha Co-operative Housing Society Ltd.

Versus

Navnath Shraddha Cooperative Housing Society Ltd. through Secretary ...Respondents

Mr Yogendra Pendse, a/w *Ms. Tejashree Joshi*, Advocate for
the Petitioner in WP/6669/2023.

Mr Sagar Paspohe, i/b *Yende Legal Assoc.*, for t12345678he
Petitioner in RPW/83/2024.

Ms R.M. Shinde, AGP, for the Respondent State.

CORAM M.S. Sonak &
 Kamal Khata, JJ.
DATED: 8th August 2024

PC:-

1. Heard Mr. Sagar Paspohe, learned counsel for the Review Petitioners (Vaibhav Namdev More and others) and Mr.Yogendra Pendse, learned counsel for the Original Petitioner in Writ Petition No. 6669 of 202.

2. The original Petition was disposed of by order dated 27th June 2024. The said order reads as follows :

“1. On the 2nd round none appears for the Petitioner as well as the Respondents.

2. The only grievance in this Petition is that Respondent Nos. 1 to 3 have made an order on 7th March 2018 for demolition of certain illegal constructions carried out by Respondent Nos. 5 to 8 within eight days from the date of such directions. But, till date, the order dated 7th March 2018 has not been enforced.

3. The records bear out that the Corporation has indeed made the order dated 7th March 2018. Unless this order is set aside or stayed, there is no justification for the KDMC not to enforce the order for almost six years when the directions to Respondent Nos. 5 to 8 were to implement.

4. Accordingly, we dispose of this Petition by directing the Kalyan Dombivli Municipal Corporation to enforce its own order dated 7th March 2018 on or before 25th July 2024 and file compliance report in this Court by 8th August 2024. A copy of the compliance report must be furnished to the learned counsel for the Petitioner before the same is filed.

5. This Petition is disposed of with the above directions. There shall be no order for costs.

6. All concerned to act upon an authenticated copy of this order.”

3. Now, Mr.Vaibhav More and others(Respondents Nos. 5 to 8) have instituted this Review Petition to seek a review of the above order dated 27 June 2024.

4. There is no certificate as prescribed under the Rules accompanying the Review Petition. However, we do not propose dismissing the Review Petition only because no certificate, as is required under the Rules, accompanies the Review Petition. This Review Petition is considered on merits and dismissed.

5. Mr. Sagar Paspohe, learned counsel for the Review Petitioners, submits that the Corporation’s order dated 07th March 2018 is being misinterpreted. He refers to the order dated 07th March 2018 on page 38 of the Review Petition and submits that there was no specific direction for demolition of the structure in question. He submits that there was no obligation to undertake any demolition in the absence of any such specific direction. He submits that there is an error apparent on the face of the record and, therefore, the order dated 27th June 2024 should be reviewed.

6. Apart from the fact the ground urged does not constitute the error apparent on the face of the record, we have perused the demolition order dated 07th March 2018 on page 38 of the Review Petition. The order very clearly stated that a show cause notice was issued to the Review Petitioners, and because the cause shown by them was far from satisfactory, they were directed to demolish the patently illegal construction undertaken by them within 30 days at their own cost and restore the land to its original position. The demolition order states that if this were not done, the Corporation would carry out the demolition at the cost and consequence of the Review Petitioners. Accordingly, the contention about there being no specific order of demolition is quite misconceived and cannot be accepted.

7. Since no other ground was urged in the Review Petition and the ground urged lacks merit and, in any event, does not constitute any error apparent on the face of the record, we dismiss this Review Petition.

8. The review petition is dismissed. No order as to costs.

(Kamal Khata, J)

(M.S. Sonak, J)