

Sumedh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 10640 OF 2024
IN
WRIT PETITION NO. 1533 OF 2024

Sharad Hiranman Mhatre	...Applicant
<i>In the matter between</i>	
Manda Namdev Mhatre & Ors	...Petitioners
<i>Versus</i>	
The State of Maharashtra & Ors	...Respondents

INTERIM APPLICATION NO. 10641 OF 2024
IN
WRIT PETITION NO. 1533 OF 2024

Rajendra Hiranman Mhatre	...Applicant
<i>In the matter between</i>	
Manda Namdev Mhatre & Ors	...Petitioners
<i>Versus</i>	
The State of Maharashtra & Ors	...Respondents

Mr Drupad Patil, i/b Pavan Patil, for the Applicant in both IAs.
Mr SL Babar, AGP, for the Respondent-State.
Mr Prashant P Kulkarni, for the Orig Petitioner/Respondent in both IAs.
Mr Jagdish Reddy, for Respondents Nos. 5 to 10.

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

SUMEDH
NAMDEO
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Date: 2024.07.23
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DATED: 19th July 2024

PC:-

INTERIM APPLICATION NO. 10640 OF 2024

1. Heard Mr Patil for the Applicant.
2. This Application has been filed in a disposed matter, and it is doubtful whether such an Application would lie. The reason given in this Application is that the Advocate who argued the matter was under the bona fide impression that this Court had directed the Respondent Corporation to demolish the Applicant's unauthorised constructions after following the due process of law (meaning that the completed process which was after following the due process should be repeated).
3. Our order dated 28 June 2024 is quite clear, and the impression allegedly carried by the Advocate was entirely misconceived. The order notes that the Applicant's structure was adjudged as unauthorised and even demolished by the Panvel Municipal Council on one occasion. However, after such demolition, the Applicant reconstructed the structure again without bothering to follow the law or even apply for any permissions from the Corporation.
4. The Corporation, instead of taking immediate action to demolish this reconstruction, went on sending reminders after reminders to the Applicant. Therefore, the Petitioner, the

complainant, approached this Court, pointing out inaction on the part of the Corporation.

5. After considering the above circumstances, our order dated 28 June 2024, which was made after hearing the learned counsel for the Applicant, directed the Corporation to execute its own demolition orders against the reconstruction put up by the present Applicant.

6. Therefore, at this stage, submitting that the Corporation has not followed due process of law is quite untenable. The Applicant insists that the Corporation follows due process of law when, in fact, the Corporation has followed such due process. The Applicant has displayed complete apathy towards the law and even reconstructed the structure that was demolished earlier as an illegal construction.

7. Mr Patil, based on certain documents now annexed to this Interim Application, tries to point out that some portion of the construction was legal and that the Applicant apprehends that this legal portion would also be demolished. He submits that the notice now issued is quite vague.

8. We have perused the notice and disagree with the contention that it is vague. Even the documents produced on record hardly support the contention now put up across the bar. If there was any merit in this contention, it was reasonably expected that the same would have been pointed out to us when we made our order dated 28 June 2024. This contention is nothing but a plot to delay the

execution of the Corporation demolition orders, which the present Applicant has not even challenged.

9. Accordingly, on the grounds set out in the Interim Application and on the grounds now urged by Mr Patil on behalf of the Applicant, no case is made out to recall our order dated 28th June 2024 or to award any cost in favour of the Applicant herein. This is a fit case where the Applicant should pay the cost of Rs. 10,000/- to the Original Petitioners within four weeks from today.

10. Interim Application is dismissed with a cost of Rs. 10,000/-.

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11. Heard learned counsel for the parties.

12. The reasoning in the order by which we have dismissed another Interim Application No. 10640 of 2024 equally applies to this Interim Application.

13. Here, Mr Patil urged an additional point: The Applicant had applied for permission to carry out repairs, and the Corporation informed the Applicant that no permission is necessary for activities like re-plastering, fitting tiles, painting, etc. Secondly, it is contended that the Applicant already applied for building permission in February 2020. This application is pending.

14. According to us, the above circumstances constitute no ground whatsoever for recalling our order dated 28th June 2024. This is the case where the Corporation issued a demolition order regarding the illegal construction put up by this Applicant. Since there was a delay in executing this demolition order, the complainant approached this Court. The Corporation submitted that the demolition orders had been executed earlier, but the Applicant was reconstructed again without any permissions.

15. The fact that permission was applied for does not mean that the Applicant could have undertaken any construction without such permission being granted by the Corporation. The corporation had required the Applicant to furnish several documents before the application could be considered. The Corporation's communication about no permission being required for plastering, repainting, etc., is quite irrelevant because the record does not show that these are the only works undertaken by the Applicant.

16. In the application, the Applicant has pleaded that the Applicant has filed several applications for regularisation. However, Mr Patil states that no application for regularisation has been filed. Thus, there is variation between the submissions made across the bar and averments in the application. In any case, if applications are made for regularisation, they presuppose that the Applicant has carried out illegal and unauthorised constructions. By filing applications without requisite documents, the execution of the demolition order, which has attained finality, cannot be stalled.

17. For all the above reasons and the reasons in our order dismissing the connected Interim Application No. 10640 of 2022, we dismiss this Application at a cost of Rs. 10,000/— payable to the Original Petitioner.

(Kamal Khata, J)

(M.S. Sonak, J)