

Mugdha

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.990 OF 2024

Hemant Chandrakant Dhebare ...Petitioner
Versus
The Municipal Commissioner, Municipal
Corporation of Greater Mumbai & Ors. ...Respondents

Mr Rajesh P. Khobragade a/w Rahul S. Yadav i/by Sandeep
Sherkhane & Sandhya S. Kale, *for the Petitioner.*
Mr R. M. Hajare, *for the Respondent-BMC.*

CORAM M.S. Sonak &
Arif S. Doctor, JJ.
DATED: 6th August 2024

PC:-

1. Heard Learned Counsel for the Petitioner and Learned Counsel for the Respondent-BMC.
2. This Petition was instituted by the Petitioner, who complained about the BMC's inaction regarding certain alleged illegal constructions undertaken by Respondent Nos.6, 7, and 8.
3. Admittedly, the Corporation issued notice under Section 354 of the Mumbai Municipal Corporation Act, 1888, and tried to act against the said illegal constructions. However, Respondent Nos.6,

7, and 8 instituted L.C. Suit No.3442 of 2023 before the Bombay City Civil Court at Dindoshi and obtained certain interim orders.

4. Thus, the reliefs in this Petition stand substantially worked out. It is now for the Petitioner to take further steps if he so desires so that the BMC's action is taken to its logical conclusion.

5. Learned Counsel for the Petitioner, however, complains that the BMC is not filing its Reply before the City Civil Court, as a result of which the interim relief continues. He points out that Respondent Nos.6, 7, and 8, taking advantage of this interim relief, are proceeding with the illegal constructions, and the original structure, which was a ground-floor structure, has now been advanced up to the fourth floor without obtaining any permissions from the BMC.

6. At this stage, it is not necessary for this Court to go into all these issues. However, we expect that a public authority like BMC pursues such matters diligently and files its Reply in time. Further, if what the Learned Counsel for the Petitioner states is correct, then it is the duty of the BMC to bring these facts to the notice of the Learned Trial Judge. Normally, in such matters, we think that even if interim relief is granted restraining the BMC from executing its demolition orders, a status quo must be ordered so that the parties, who are alleged to have carried out illegal constructions, do not under the cover of interim orders, continue with the illegal construction without permission of the concerned authorities.

7. The above observations are based on the submissions made by Learned Counsel for the Petitioner. However, we have not ascertained whether these submissions are correct. The City Civil Court should look into these matters so that there is no injustice to any of the parties.

8. However, now that the Corporation is ready to act but is prevented from proceeding further on account of the orders made by the City Civil Court, the reliefs in this Petition have been worked out, and this Petition is accordingly disposed of. There shall be no order as to costs.

(Arif S Doctor, J)

(M. S. Sonak, J)