

Sumedh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 1033 OF 2024

Shivratan Baladin Dhobi ...Petitioner
Versus
The Assistant Municipal Commissioner, BMC, ...Respondents
K/W Ward & Ors

Mr Sagar Batavia, i/b Angad Giri, for the Petitioner.
Ms RM Hajare, for the Respondent-BMC.
Mr Sumedh Meshram, JE (Main) K/W-Present.

CORAM M.S. Sonak &
Kamal Khata, JJ.
DATED: 4th July 2024

PC:-

1. Heard learned counsel for the parties.

2. The Petitioner was issued a notice under Section 314 of the MMC Act, and in pursuance of the same, the structure he put up on a public street/footpath was demolished.

3. The Petitioner has now instituted this Petition urging that the Brihanmumbai Municipal Corporation (“BMC”) should permit the Petitioner to re-erect the structure at the same place and also decide

on the issue of Petitioner's eligibility for permanent alternate premises in a time-bound manner.

4. Ms Hajare, learned counsel for the BMC, has placed before us photographs showing the Petitioner reconstructing the structure at the same spot again without bothering to seek permission from any authorities.

5. The Petitioner's structure, which is on the public street/footpath, was demolished by following the due process of law. On the one hand, the Petitioner approaches the Court for relief to reconstruct the structure. On the other hand, the Petitioner, without waiting for any orders from the Court or any permission from the BMC, has proceeded to reconstruct the structure at the same spot. Such a Petitioner, no reliefs can ordinarily be granted under Article 226 of the Constitution.

6. Accordingly, we clarify that it is open to the BMC to take action against the reconstructed structure.

7. The Petitioner has, to date, not applied for any permanent alternate accommodation, assuming that he is entitled to any such accommodation. Learned counsel for the Petitioner refers to some GR, in terms of which he contends that the Petitioner is entitled to permanent alternate accommodation. If this is so, the Petitioner is at liberty to apply to the BMC, giving full particulars, and if such application is made, the BMC should dispose of the same in

accordance with law and on its own merits within two months of its receipt, i.e., on or before 29th August 2024.

8. However, we once again record our displeasure at the Petitioner taking the law into his own hands and clarify that the BMC will be free to remove the reconstructed structure. The pendency of an application seeking permanent alternate accommodation shall not be an impediment to any action by the BMC to remove the structure. In fact, the issue of permanent alternate accommodation arises only after the structure is removed.

9. In view of the above observations and directions, this Petition is disposed of. No orders as to costs.

10. All concerned must act on an authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)