

Talwalkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO.1690 OF 2024
IN
WRIT PETITION NO. 1383 OF 2023

Vincent D Cruz	...Applicant
<u>In the matter between</u>	
Vincent D Cruz	...Petitioner
<i>Versus</i>	
The Municipal Corporation of Greater Mumbai and Ors.	...Respondents

Ms Manisha Bhatia *a/w Ms. Suman Gupta, for the Applicant.*
Ms Gauri Jadhav, *a/w Meena Dhuri i/b. Mr. Sunil Sonawane, for the*
Respondent Nos.1 to 3 - MCGM.
Mr. Avinash Kamble, *License Inspector K(West).*

CORAM M.S. Sonak &
Kamal Khata, JJ.
DATED: 26th June 2024

PC:-

1. Heard Ms. Mansha Bhatia, learned Counsel for the Applicant and Ms. Gauri Jadhav, learned Counsel for the Respondent-Municipal Corporation of Greater Mumbai("MCGM"). The learned Counsel for the Applicant states that all other respondents have been duly served and they have filed an affidavit of service.

2. The Petitioner has pleaded that despite several complaints from 2013 to 2021, MCGM was not taking any concrete action against illegal construction put up by Respondent Nos. 4 and 5 in the plot adjacent to the Petitioner's.

3. Ms Gauri Jadhav learned Counsel for the MCGM, invites our attention to the affidavit filed on behalf of the BMC on February 6, 2023.

4. Paragraphs 4 & 5 of this affidavit are relevant and the same read as follows :

"4) I say that as per the ssaid various complaints filed by the Petitioner since 2013 the Corporation has issued notice under section 55 of the Maharashtra Regional and Town Planning Act, 1966 on 20.01.2023 whereby directed the Respondent Nos. 4 and 5 to demolish the unauthorized erection of shed (Charcoal Godown) with A.C. Sheet Walls and A.C. Sheet Roof admeasuring 11.8 m X 6.5 m X 3 m approximate, situate at Habib Chawl, C.T.S. No. 1146 of Versova Village, Joseph Patel Wadi, Versova, Andheri (West), Mumbai - 400 061. Hereto annexed and marked as **Exhibit-"A"** is the copy of the notice dated 20.01.2023. By this notice the Corporation has directed the Respondent Nos. 4 and 5 to remove the unauthorized development within 15 days from receipt of this notice. It is further directed by the Corporation that on failure to comply with the aforesaid directions the unauthorized work carried out by the Respondent Nos. 4 and 5

would be removed by the Corporation without any further intimation. Thus, the Corporation has started the procedure for the demolition of the said illegal construction on the plot mentioned hereinabove.

5) I say that even the license issued by the Corporation to the Respondent Nos. 4 and 5 is expired on 31.12.2022. Thus, the Respondent Nos. 4 and 5 cannot run any business in the suit premises. Hereto annexed and marked as **Exhibit-"B"** is the copy of the License issued by the Corporation.

5. It does appear that MCGM has finally taken some action. However, the notices referred to in paragraphs 4 and 5 of the MCGM affidavit were issued almost a year ago, and the Petitioner now complains that such notices have not been executed to date.

6. Accordingly, we direct the MCGM to execute its notice dated 20/1/2023 as expeditiously as possible and within four weeks, i.e. on or before 24th July 2024. Similarly, if the licence issued by the Corporation to Respondent Nos. 4 and 5 has expired on 31st December 2022 and, according to the MCGM, the said Respondents cannot run any business in the said premises, It is incumbent upon the MCGM to ensure that no business is run from the suit premises. The MCGM must take effective steps to ensure this.

7. Considering that the MCGM has delayed action considerably in this matter, we expect and direct that action in accordance with

MCGM's own order must be completed by 24th July 2024 without giving any excuse.

8. The MCGM shall file the compliance report in this court by 31 July 2024 after giving an advance copy to the learned Counsel for the Petitioner.

9. The Petition is disposed of in the above terms with no order as to cost.

10. All concerned to act on the authenticated copy of this order.

(Kamal Khata, J)

(M.S. Sonak, J)

ARUNA
SANDEEP
TALWALKAR

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by ARUNA
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