

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**ORDINARY ORIGINAL CIVIL JURISDICTION****WRIT PETITION NO. 2358 OF 2023**

Shelaji Infrastructure LLP

... Petitioner

V/s.

Municipal Corporation Of Gr. Bombay & Ors.

... Respondents

WITH**INTERIM APPLICATION NO. 3342 OF 2024****IN****WRIT PETITION NO. 2358 OF 2023**

Jagdishprasad Dwarkaprasad Shukla

... Applicant

In the matter between :-

Shelaji Infrastructure LLP

... Petitioner

V/s.

Municipal Corporation Of Gr. Bombay

... Respondent

Mr. Rakesh K. Agrawal for Petitioner in WP/2358/2023.

Ms. Armin Wandrewala a/w. Mr. Manan Jaiswal & Ms. Niyati Shah i/b. MLS Vani & Associates for Applicant in IA/3342/2024.

Ms. Meena Dhuri i/b. Ms. Komal Punjabi for MCGM in WP/2358/2023.

Mr. Philipps D'souza, Sub-Engineer (B&F Dept.), R/North Ward, present.

Mr. G.S. Godbole a/w. Ms. Meena Dhuri i/b. Ms. Komal Punjabi for MCGM in CP/07/2014.

Mr. Milind More, Addl.G.P. for Respondent-State.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

DATE : 11th December 2024.

P.C. :

1) By the present Writ Petition, the Petitioner is seeking writ of mandamus or an appropriate writ directing the Respondent Nos.1 & 2 to remove all the encroachers and illegal, unauthorized structures from plot bearing Survey No. 173, Hissa No. 3, corresponding C.T.S. No. 2569, admeasuring 4193 sq.mtrs., Village Dahisar, Taluka Borivali, Mumbai City, situated at Shyam Narayan Dubey Road, Dahisar (East), Mumbai.

2) Heard learned counsel for Petitioner at length. Perused entire record.

3) Admittedly, the said plot of land is Petitioner's private property. Record indicates that, the structures existed on the suit property prior to the acquisition by the Petitioner. Thus the Petitioner was well aware of the same. Though it is claimed that, the part of it is reserved under the Development Plan of 2034, till date, the MCGM has not taken possession of the said part of land and the procedure for payment of compensation is not yet completed. In these circumstances, according to us, it is for the Petitioner to adopt appropriate remedy including filing suit for declaration and/or eviction against the encroachers/occupiers before the jurisdictional Civil Court. The Petitioner is not entitled to directly approach this Court under Article 226 of the Constitution of India without availing the said remedy. It appears to us that, seeking a remedy through the Civil Court is both time consuming and requires incurring of significant expenses. As a result, the Petitioner, in an

attempt to bypass these hurdles, has directly approached this Court.

4) In view thereof, we found no merit in the Petition. Petition is accordingly dismissed.

5) In view of dismissal of Petition, Interim Application No. 3342 of 2024 does not survive and is accordingly disposed off.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)

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