

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. 120 OF 2008

Yashwant Krishnaji Modak

.....*Petitioner*

: Versus :

The State of Maharashtra & Ors.

....*Respondents*

Mr. M.L. Patil *for the Petitioner.*

Ms. V.R. Raje *AGP for Respondent Nos. 1 and 2.*

CORAM : ALOK ARADHE, CJ. &

SANDEEP V. MARNE, J.

DATED : 5 AUGUST 2025

P.C :

1) In this petition filed as Public Interest Litigation, the Petitioner, *inter-alia*, seeks a direction to Chiplun Municipal Council to forthwith cancel the building permission No.816 dated 3 June 2005 issued in favour of Respondent Nos. 6 to 10, as well as direction to Respondent Nos.1 to 3 to forthwith demolish the illegal construction made by Respondent Nos.6 to 10 in CTS No.3435 in Survey No.238A/1B at Chiplun, District-Ratnagiri.

2) The facts giving rising to filing of this petition, briefly stated are that, Respondent Nos.6 to 10 are owners of land bearing Survey No.238A/1B, CTS No.3435 admeasuring 13.7R situated in Chiplun, District-Ratnagiri. The aforesaid land is situated within the limits of Chiplun Municipal Council. Respondent Nos.6 to 10 on 6 April 2005

obtained the permission from the Collector, Ratnagiri to use the land for non-agricultural purposes. Thereafter they submitted an application to Municipal Council seeking grant of building permission. It appears that Respondent Nos.6 to 10 in violation of the building permission, raised the construction thereupon on the river bed of Shiv river a major river which passes through the City of Chiplun.

3) Thereupon, Chiplun Municipal Council issued stop work notices dated 8 June 2005 and 9 June 2005. The Irrigation Department also by communication dated 16 May 2006 informed the Collector that the construction falls within the floodline. The Collector thereupon on 29 May 2006 issued orders to stop construction as the same was falling in the floodline. The Chief Officer of the Municipal Council also on 31 May 2006 issued a direction to Respondent Nos.6 to 10 to stop the work.

4) Respondent Nos.6 to 10 on 26 July 2006 filed Regular Civil Suit No. 187/2006 in the Court of Civil Judge Senior Division, Ratnagiri against the Collector, Municipal Council and others wherein the validity of the order dated 29 May 2006 as well as order dated 31 May 2006 passed by the Chief Officer of the Municipal Council was challenged. Respondent Nos.6 and 7 also sought the relief of permanent injunction restraining the Collector and Chief Officer of the Municipal Council from obstructing the construction. The aforesaid Civil Suit was dismissed on 5 March 2009. Respondent Nos.6 to 10 preferred an Appeal namely Regular Civil Appeal No.25/2010 which was also dismissed on 29 March 2016.

5) It appears that during the pendency of the suit, the Petitioner filed this PIL seeking the reliefs as stated (supra). The Bench of this Court, by an interim order dated 25 September 2008 restrained Respondent Nos.6 to 10 from carrying out construction work.

6) We have heard Mr. Patil the learned counsel appearing for the Petitioner, as well as the learned AGP appearing for Respondent Nos.1 and 2. None has appeared on behalf of Respondent Nos.3 to 10.

7) The Municipal Council, Chiplun had issued stop work notices dated 8 June 2005 and 9 June 2005 to Respondent Nos.6 to 10. Similarly, the Collector on 29 May 2006 issued an order to stop construction as it was found that the construction which was being raised by Respondent Nos.6 to 10 was coming on the floodline. The Chief Officer of the Corporation on 31 May 2006 issued an order directing Respondent Nos.6 to 10 to stop construction.

8) The validity of the order dated 29 May 2006 and 31 May 2006 passed by the Collector and Chief Officer, Municipal Council, Chiplun was assailed by Respondent Nos.6 to 10 in Regular Civil Suit No.187/2006. The aforesaid civil Suit has been dismissed on 5 March 2009. The judgment and decree passed by the Trial Court has been confirmed in Appeal vide judgment dated 29 March 2016 passed in Civil Appeal No.25/2010.

9) Thus, it is evident that the construction raised by Respondent Nos.6 to 10 is illegal. The Municipal Council is therefore directed to take action for demolition of the construction raised by Respondent Nos.6 to 10 in accordance with law. The petition is accordingly disposed of.

[SANDEEP V. MARNE, J.]

[CHIEF JUSTICE]

Digitally
signed by
NEETA
SHAILESH
SAWANT
Date:
2025.08.06
17:17:49
+0530