

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO. 76 OF 2024

IN

FIRST APPEAL NO. 102 OF 2007

Shreepad Balkrishna Thithe

...Petitioner.

Versus

Municipal Corporation Of
Greater Mumbai and Others.

...Respondents.

Mr. Gireesh U. G. Menon for Petitioner.

Mr. A. G. Revaskar for Respondent Nos. 5 and 6.

Ms. Uma Palsule Desai and Ms. Vidya Vyavhare i/b Ms. Komal Punjabi for Respondent-Corporation.

Mr. A. R. Patil, AGP for Respondent-State.

Coram : Sharmila U. Deshmukh, J.

Date : January 20, 2025.

P. C. :

1. Contempt is alleged of order dated 1st February, 2023 by which this Court held that till the Application for regularization is pending, no adverse action in relation to the construction which was subject-matter of notice under Section 351 of Mumbai Municipal Corporation Act, 1888 shall be taken against Appellant. This Court had further directed that since the notice has been issued in the year 2001, the Application for regularization dated 15th January, 2021 shall be dismissed within a period of twelve weeks from today.

2. Learned counsel appearing for Petitioner would submit that

though the Court had directed the Application for Regularization dated 15th January, 2021 to be decided, the same was not decided and in fact, by communication dated 25th May, 2023, the Petitioner was directed to submit his proposal for regularization within a time limit given by the Court on the online portal. He submits that accordingly, the Application was filed. However, the same has not yet been decided and on 7th November, 2023 at about 1.00 p.m., the construction has been demolished at the instance of landlords.

3. Despite repeated queries by this Court, learned counsel for the Corporation has not been able to point out the order by which the Application dated 15th January, 2021 has been decided. The order was very clear that the Application for regularization of 15th January, 2021 is to be decided. Considering the specific directions given by this Court, it is not open for the Corporation to again call upon the Petitioner by communication of 25th May, 2023 to file fresh Application for regularization in the online portal without seeking necessary modification of the order of this Court.

4. As of today, there is no notice which is issued to Respondents. Learned counsel is appearing for Municipal Corporation of Greater Mumbai, which is not party to the proceedings. Let the notice be issued to Respondent Nos. 1, 2 and 3 returnable on **17th February, 2025**.

5. It is made clear that this notice is not a notice issued in exercise

of contempt jurisdiction.

6. In addition to Court notice, Advocate for the Petitioner to serve the Respondents by private notice by all possible modes of service and file affidavit of service before the next date.

[Sharmila U. Deshmukh, J.]