

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.12129 OF 2024**

Jayram Shripat Patil & Ors.

.....Petitioners

Vs.

The Thane Municipal Corporation & Ors.

.....Respondents

Mr. S. R. Ganbavale a/w Shyamsundar Patil a/w Harshad Sathe i/by Sachin Rane for the Petitioners.

Mr. Anand S. Kulkarni for Respondent Nos.1 & 4.

Ms. M. P. Thakur, AGP for Respondent No.3.

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**CORAM : A. S. GADKARI AND
ARIF S. DOCTOR, JJ.**
DATE : 29th JANUARY, 2025.

PC.:-

1) By the captioned Petition filed under Article 226 of the Constitution of India, the Petitioners are impugning a Notice dated 21st June, 2024, issued by Respondent No.4 i.e. the Assistant Commissioner, Advertisement, Thane Municipal Corporation to one M/s. Mangal Publicity (the noticee). The impugned notice directs the noticee to remove a hoarding which is erected on the building owned by the Petitioners.

2) Heard Mr. Ganbavale, learned counsel for the Petitioners, Mr. Kulkarni, learned Advocate for Respondent Nos.1 and 4 and Ms. Thakur, learned AGP for Respondent No.3. Perused record.

3) The main grievance of the Petitioners is that while the impugned notice directs removal of the hoarding which is located at top of the building owned by the Petitioners, on account of the ongoing Metro Rail project, no steps have been taken by the concerned Authorities for acquisition of the Petitioners' land and building. It is thus he submits that, the impugned notices be quashed and set aside.

4) We find that the contentions to quash and set aside the impugned notice are plainly misconceived and untenable in law. *Firstly*, a plain reading of the impugned notice makes clear that, the directions issued by Respondent No.4 are to the noticee and not to the Petitioners. Thus, in our view, the Petitioners locus to impugn the same are entirely lacking. *Secondly*, the reason ascribed in the notice for removal of the hoarding is that the same will impede the ongoing work for the construction of the Metro Line in the city. Thus, the removal of the hoarding is directed keeping in mind the larger public interest involved. We are therefore not inclined to grant relief to the Petitioners in terms of prayer clause (b) of the Petition.

5) However, insofar as prayer clauses (c) and (d) are concerned, which pertain to the Petitioners' grievance with regard to the failure of the authorities to acquire the Petitioners' land and building, the same would constitute a separate and distinct cause of action which it is always open for the Petitioners to agitate in appropriate proceedings. We therefore reserve

the rights of the Petitioners to agitate their grievances *qua* prayer clauses (c) and (d) for implementation of the Order dated 5th September, 2022 in an appropriate proceeding which the Petitioners may institute. We make it clear that by this order, we have not in any manner expressed an opinion on the Petitioners' claim/case *qua* prayer clauses (c) and (d).

6) Petition is accordingly dismissed in the aforesaid terms.

(ARIF S. DOCTOR, J.)

(A.S. GADKARI, J.)