

(2017) 05 BOM CK 0006

In the Bombay High Court

Case No : Notice of Motion (L) No. 166 of 2017 In Public Interest Litigation No. 140 of 2006

Municipal Corporation for Greater Mumbai

APPELLANT

Vs

Janhit Manch

RESPONDENT

Date of Decision : 05-05-2017

Acts Referred:

Citation : (2017) 05 BOM CK 0006

Hon'ble Judges : A.S. Oka and A.K. Menon, JJ.

Bench : Division Bench

Advocate : A.Y. Sakhare, Senior Counsel a/w Mr. Ram Apte, Senior Counsel and J.J. Xavier, Ms. Komal Punjabi, Ms. Geeta Joglekar, Advocates, for the Applicants in NMWL/166/2017.; L.T. Satelkar, AGP, for the Respondent-State in NMWL & PIL/140/2006.

Final Decision : Disposed Off

Judgement

1. Heard the learned counsel appearing for the applicants and the learned Government Pleader appearing for the respondent State. We have perused the affidavits filed yesterday of Dr. (Smt.) Bhagyashree Tukaramji Kapse, Assistant Commissioner, "N" Ward and Shri Arun Shriram Manjul working as the Executive Engineer (I/c) "N" Ward. As of today, we are not entering into the factual controversy raised by the said affidavits as the learned Additional Government Pleader states that the affidavits will be filed dealing with the said two affidavits.

2. After having carefully perused the record and affidavits on record, we find that notwithstanding the order dated 11th January, 2016, there is a complete lack of coordination between the Police Department and the Mumbai Municipal Corporation. Prima facie, we agree with the submissions made across the Bar that the officers attached to local Police Stations must remain present when police assistance is provided to the Municipal Corporation for the work of carrying out demolition.

3. Compliance with the orders passed by this Court in the PIL cannot be delayed only because there is a complete lack of coordination between the Municipal Corporation and the Police Department. We, therefore, direct the Additional Chief Secretary (Home) to immediately convene a meeting of the Commissioner of Police, the Municipal Commissioner and all other senior officers and work out a scheme under which a proper coordination between the Police Department and Mumbai Municipal Corporation is established and adequate police protection and assistance is made available to the Municipal Officers for carrying out the work of demolition. Appropriate decision shall be taken by the Additional Chief Secretary (Home) within a period of one month from today which shall be placed on record along with an affidavit. While taking appropriate decision, the Additional Chief Secretary of the Home Department will lay down a protocol which will apply to all actions taken in future by the Mumbai Municipal Corporation for implementation of the orders passed by this Court in the PIL.

4. Affidavit of Shri Arun Shriram Manjula contains a schedule of demolition of affected structures. The learned Additional Government Pleader on instructions of the Police Department states that due to exigencies, the schedule is required to be altered so that proper police protection is made available. Accordingly, it is agreed that demolition work covered by Phase - I will be carried out in Ambedkar Nagar 2, Bhim Nagar, Rajawadi, Vidyavihar (E) falling within Tilak Nagar Police Station on 13th, 14th and 15th May, 2017. It is further agreed that demolition work at Parsekar chowk to Ganesh Wadi Water Tank, Bhatwadi, Ghatkopar (W) and Ganesh Wadi Water Tank to Khandoba Tekdi Bhatwadi, Ghatkopar (W) within the area of Ghatkopar Police Station will be carried out between 16th to 21st May, 2017.

5. It is, therefore, obvious that on the agreed dates, adequate police protection shall be made available by the State Government. The State Government shall ensure that the officers attached to the local Police Stations are also part of the police party. Needless to add that before starting demolition work, necessary entry shall be taken in the Station diary of the respective Police Stations.

6. For reporting compliance on the part of the State Government and for considering the affidavit of the Hon'ble Minister, Notice of Motion shall be listed on 22nd June, 2017.

7. The learned Additional Government Pleader has tendered a sealed envelope on record signed by Shri Avinash Pore, Assistant Police Inspector of Tilak Nagar Police Station, Shri Vaibhav Ramesh Mirashi, CCTV Technician and two panch witnesses. Above their signatures, it is recorded that the envelope contains four Digital Versatile Discs and a Pen Drive of Scan Disc make having memory of 16 GB. A copy of panchanama dated 29th April, 2017 is also placed on record marked "P1" for identification. The details of the CCTV footage of 15th April, 2017 are also placed on record and marked "P2" for identification. The sealed envelope along with the documents at Exhibit "P1" and "P2" shall remain in safe custody of the Prothonotary and Senior Master. The learned Additional

Government Pleader states that CCTV footage of 15th April, 2017 has been preserved by the Police Station.