

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 2692 OF 2000

Bombay Environment Action Group and Anr. ...Petitioners

Versus

State of Maharashtra and Ors. ...Respondents

Mr. Arif Doctor, Ms. Sheetal Shah i/b M/s. Mehta and Girdharlal for petitioners.

Ms. Nisha Mehra, AGP for respondent Nos.1 to 3.

Mr. Dinesh Shinde a/w Mr. Siddheshwar Biradar i/b I. V. Merchant & Co. for respondent Nos. 4 to 7.

Ms. Jaya Bagwe i/b Ms. Sharmila V. Deshmukh for respondent No.8.

CORAM : A.S.OKA AND M.S.SANKLECHA, JJ.

DATE : 12th April 2019

PC.:

Perused Judgment and Order dated 1st November, 2018. Paragraph 30 of said Judgment and Order reads thus.

ORDER

(i) In view of admitted position that the fourth to seventh respondents have constructed the structures in excess of what is permitted under the order dated 4th December 1998 passed by the Collector, we grant time of three months from today to the said respondents to restore the structure to the extent permitted under the order, permission dated 4th December 1998.

(ii) On failure of the fourth to seventh respondents to comply with the above directions within the stipulated time, the Collector of District Raigad shall take action of demolition of the construction which is carried out in excess of what is permitted under the permission dated 4th December 1998. If the Collector finds that it is not possible to demolish only a part of the structure, it will be open for him to demolish the entire structure. In such event, the fourth to seventh respondents will be entitled to reconstruct the structure in terms of order/permission dated 4th December, 1998.

(iii) Rule is made partly absolute on above terms.

(iv) For reporting compliance by the fourth to seventh respondents and/or by the Collector, the petition shall be listed on 20th March, 2019.

Sd/-

(RIYAZ I. CHAGLA, J)

Sd/-

(A. S. OKA, J.)

2. The said Judgment and Order has attained finality in as much as the said Judgment and Order as well as the order dismissing the review petition were challenged by the concerned respondents before the Apex Court by filing a Special Leave Petition. By the order dated 1st March, 2019 passed by the Apex Court, the Special Leave Petition was dismissed.

However, time of one month was granted to the respondent Nos.4 to 7 to comply with the aforesaid directions issued under the final Judgment. Thereafter, a miscellaneous application was filed by the said respondents before the Apex Court. Under the order dated 29th March, 2019 that the said miscellaneous application has been withdrawn by the respondent Nos.4 to 7. The learned Counsel appearing for the respondent Nos.4 to 7 states that the said respondents have moved the Apex Court for grant of further extension. But, there is no such order passed by the Apex Court till date.

3. The Judgment and Order dated 1st November, 2018 has attained finality. Clause (ii) of paragraph 30 of the Judgment and Order has become operative. Therefore, the Collector is under an obligation to implement the said order.

4. Today, the learned AGP tenders the affidavit of Dr. Vijay Namdevrao Suryawanshi, Collector Raigad, Dist. Raigad dated 11th April, 2019. As of today, we are not granting the prayer for time extension of time made therein. However, paragraph No.5 indicates that a technical opinion has been sought by the Collector. To enable the Collector to report further compliance, the petition be kept on board on 26th April, 2019 under the caption of "direction". The Collector to file affidavit of compliance on that date.

(M.S.SANKLECHA, J.)

(A.S.OKA, J.)