

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO.46 OF 2008

Janhit Manch & Ors. .. Petitioners
Vs.
Mumbai Metropolitan Regional Development Authority & Ors. .. Respondents

1. THE CHAIRMAN, Mumbai Metropolitan Regional Development Authority, MMRDA,
2. BRIHANMUMBAI MUNICIPAL CORPORATION through its Commissioner,
3. THE SUPERINTENDENT OF LICENCES
4. COMMISSIONER OF POLICE
5. ADDITIONAL COMMISSIONER OF)...Respondents.

CORAM : J.N.PATEL &
K.U.CHANDIWAL, JJ.
DATED : 9TH JULY, 2008

P.C.:

1. Notice to respondents, returnable 4 weeks.
2. We expect that respondent nos.1 and 2 would identify the stalls in their respective Jurisdiction and take appropriate steps against encroachments and unauthorised structures by following due process of law.
3. The learned counsel for respondent nos.2 submitted that the petitioner has not furnished particulars about specific encroachment and unauthorised structures. We fail to understand how the citizen is expected to know the inside story which is well within the knowledge of respondent nos.1 and 2. Respondent nos.1 and 2 are supposed to take action if there are unauthorised structures for the reason that they are statutory bodies and are sufficient staff.
4. For the said purpose we expect the Chairman of M.M.R.D.A. and the Commissioner of the Municipal corporation to file their respective affidavit on or before the returnable date as to what action has been taken against encroachment or unauthorised structures if there is a policy of rehabilitation. It is the sole responsibility of these two statutory bodies not only to act according to the policy but also to take preventive steps so that encroachments do not take place and unauthorised structures are not constructed, otherwise there is no reason why the officers responsible should not be held accountable for their acts of omission and commission in allowing encroachment and construction of unauthorised structures. We propose to dispose of this petition at the stage of admission itself.

(J.N. PATEL, J) (K.U. CHANDIWAL, J)

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.. Petitioners.

vs.

Mumbai Metropolitan Regional Development Authority & Ors.

.. Respondents.

Mr. Sandip Jalan Petitioner in person.

Ms. Kiran Bagalia for Respondent No. 1.

Mr. M.V. Limaye with Mr. R.S. Apte for respondent nos. 2 & 3.

Mr. J.S. Saluja, AGP., for Respondent Nos. 4 & 5.

CORAM: J.N. PATEL, &
K.K. TATED, JJ.
DATE: 6TH AUGUST, 2008.

P.C.

. Leave granted to join the Additional Collector(Encroachment) Andheri Mumbai as party respondent. Necessary amendment be carried out forthwith.

2. Ms.Kiran Balalia waives service for respondent no.1. M. V. Limaye waives service for Respondent Nos. 2 and 3. M. J.S. Salmiya waives service for respondent nos. 4 & 5 and the newly added respondents.

3. Heard.

4. The respondent nos. 1 and 2 have filed their affidavit in reply. From the affidavit in reply this Court finds that they are taking necessary steps to remove the encroachers. We expect that both the respondents will take preventive steps so that no further encroachment is made on public street, footpath or land vested in local authority. We further direct the Additional Collector (Encroachment) to take a decision in the matter of cases of encroachers referred to him by the respondent no. 1 for the purpose of deciding their eligibility for rehabilitation.

5. We are informed that there are two Zunka Bhakar Kendras which, according to the respondent no. 1 are authorised, as stated in the affidavit in reply filed by the Municipal Commissioner. We expect then respondent Municipal Corporation to examine the case of the two Zunka Bhakar Kendras in the light of the decision of the Supreme Court which prohibits preparation of food articles for human consumption on public street and policy decision in the matter be taken as early as possible.

6. S.O. for two weeks.

(J.N. Patel, J.)

(K.K. Tated J.)