

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO.175 OF 2010

Vasant B. Soman and Another. .. Petitioners

Vs

Mr. R.K. Wadhwa (Diwan) and Others. .. Respondents

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Shri Vasant B. Soman, the Petitioner in person.

Shri Shahil Gandhi i/b M/s.Markand Gandhi & Co for the Respondent Nos.1 and 7.

Shri Durgaprasad S. Subnis for the Respondent No.2.

Shri Atul G. Damle, Senior Advocate along with Shri Vishesh Kalra i/by Vidhii Partners for the Respondent No.3.

Shri Akshay Shinde i/b Mr. Ashutosh M. Kulkarni for the Respondent No.5.

Shri A.B. Vagyani, Government Pleader along with Shri A.I. Patel, AGP for the Respondent No.6.

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CORAM : A.S. OKA & G.S. PATEL, JJ

DATED : 4TH DECEMBER 2015

PC.

1. We find that the order passed by this Court on 23rd July 2015 has not been complied with by the designated officer of the Vasai Virar Municipal Corporation. Even thereafter, an opportunity was granted under the order dated 30th October 2015 to the designated officer to comply with the said order. The learned counsel appearing for the second Respondent has placed on record a copy of the notice dated 26th June 2015 issued by the Acting Assistant Commissioner of the Ward Committee “D” of Vasai-Virar Municipal Corporation. We find

that Shri Suresh Rupa Pawar, Acting Assistant Commissioner in the affidavit dated 23rd June 2015 has stated that there is an unauthorized construction of the first floor. In the notice dated 26th June 2015, the construction of additional first floor above the restaurant has not been included. We, therefore, granted time to the learned counsel appearing for the second Respondent to take instructions as regards the existence of a development permission to construct the additional first floor above the restaurant. On instructions, he candidly states that the construction of the first floor referred in the said affidavit of Shri Suresh Rupa Pawar, the Acting Assistant Commissioner has been made without obtaining any development permission. In view of this statement, we grant time of three weeks to the second Respondent to remove the additional first floor on the restaurant. If the second Respondent fails to remove the same, we direct the Municipal Corporation to demolish the same on the expiry of a period of three weeks from today.

2. We direct the Assistant Commissioner of the said Corporation who has issued the said notice dated 26th June 2015 to file an affidavit explaining as to why he has not included in the said notice the additional first floor on the restaurant. Such affidavit shall be filed within a period of four weeks from today. The officer who has issued the said notice dated 26th June 2015 shall personally remain present in the Court on the next date.

3. Place this Petition on 14th January 2016 under the caption of “Directions”.

4. On that date, apart from dealing with the compliance affidavit, the other contentions raised in the PIL will be considered.

(G.S. PATEL, J)

(A.S. OKA, J)