

Urmila Ingale

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
ORDINARY ORIGINAL CIVIL JURISDICTION  
**WRIT PETITION (L) NO. 874 OF 2019**  
**WITH**  
**CHAMBER SUMMONS NO. 108 OF 2019**

Muniyandi Meena Joseph .. Petitioner  
Vs.  
The Chief Secretary Government of  
Maharashtra and ors. .. Respondents

**ALONG WITH**  
**WRIT PETITION (L) NO. 876 OF 2019**  
**WITH**  
**CHAMBER SUMMONS NO. 110 OF 2019**

Nirmala Shivaji Gadkari .. Petitioner  
Vs.  
The Chief Secretary Government of  
Maharashtra and ors. .. Respondents

**ALONG WITH**  
**WRIT PETITION (L) NO. 877 OF 2019**  
**WITH**  
**CHAMBER SUMMONS NO. 109 OF 2019**

Vijaylakshmi A. Nainar and anr. .. Petitioners  
Vs.  
The Chief Secretary Government of  
Maharashtra and ors. .. Respondents

**ALONG WITH**  
**WRIT PETITION (L) NO. 878 OF 2019**

Shivaji Rama Gadkari .. Petitioner  
Vs.  
The Chief Secretary Government of  
Maharashtra and ors. .. Respondents

Mr.Mukesh M. Vashi, Senior Counsel a/w Mr.Asif Ali Siddiquie I/b A.A.Siddiqui & Associates, for the Petitioners in all Petitions.  
Mr.A.Y. Sakhare, Senior Counsel a/w Ms.Rupali Adhate, for MCGM.  
Mr.Abhay L.Patki, Addl. GP for State.  
Mr.Ashish Kamat a/w Ms.Manorama Mohanty, Mr.Kushal Amin I/b S.K.Srivastav & Co., for Applicant in CHSW Nos. 108, 209 & 110 of 2019.

**CORAM : S.C.DHARMADHIKARI &  
M.S.KARNIK, JJ.**

**DATE : 30<sup>th</sup> APRIL, 2019**

**P.C. :**

. Having heard both the sides, we find that these Petitions raise arguable questions.

2. Once they raise arguable questions, we proceed to admit them. Rule. Learned Counsel for respondents waive service of Rule.

3. We have heard both the sides on the point of interim relief.

4. It is extremely unfortunate that post two judgments delivered in PIL and the Street Vendors (Protection of Livelihood and Regulation of Street Vending) Act, 2014 mandating the local authority to declare a zone or part of zone to be a no-vending zone for any public purpose and relocating the street vendors vending in that area, in such manner as may be specified in the scheme, all of which are referable to a survey to be carried out in terms of section (3), the impugned notice could not have been issued.

5. The affidavit-in-reply of the Municipal Corporation contains various statements, but in paragraph 10 in categorical terms says that MCGM would only regulate or take the action within four corners of the law and in principle would evict the hawkers/vendors who do not enjoy protection as of 01/05/2014 and would regulate the hawkers who are in occupation as on or before 30/04/2014 in consonance with restrictions imposed.

6. However, paragraphs 14 and 15 of this affidavit-in-

reply state as under :

“14. I say that in the meantime, the meeting of the Town/Vending Committee under the Chairmanship of Joint Municipal Commissioner (Zone – IV) held on 04/01/2019. In the said meeting, all the members of Town Vending Committee were present including the representative of the Hawker's Union. In the said meeting, the hawking zone and pitches of P/North, P/South and K/West were decided. Accordingly, 40 number of pitches on Junction of V.M. Road and N.S.Road No. 10, from electric pole No. KBC/54/14 to KBC/54/12 were proposed as 'Hawking Zone' within 500 meters from existing location at nearby vicinity on V.M. Road. Hereto annexed and marked Exhibit IV the copy of the minutes of the meeting dt. 16/01/2019.

15. I say that accordingly these Respondent by letter dt.08/03/2019 directed the Petitioners to shift/relocate the Aarey stall to adjoining footpath of Jogger's Park, North Side, Vile-Parle (West).”

7. In the light of these two statements, it is difficult to reconcile the stand of the Municipal Corporation that the petitioners being within 100 meters from the educational institutions which is prohibited by directions of this Court would necessarily be required to be shifted.

8. Shifting to which area, to our mind, has not been specified in such manner as the scheme requires the authority to specify. Hence, there shall be an interim order in terms of prayer clause (b).

**(M.S.KARNIK, J.)**

**(S.C.DHARMADHIKARI, J.)**