



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL JURISDICTION

CHAMBER SUMMONS NO.100 OF 2018
IN
WRIT PETITION NO.3166 IN 2005
ALONGWITH
CHAMBER SUMMONS NO.56 OF 2018
AND
CHAMBER SUMMONS NO.64 OF 2018
AND
CHAMBER SUMMONS NO.99 OF 2018
AND
CHAMBER SUMMONS NO.101 OF 2018
AND
CHAMBER SUMMONS NO.103 OF 2018
AND
CHAMBER SUMMONS NO.108 OF 2018

Jhuri Bihari Mallah & ors.

.Petitioners

Vs.

Brihanmumbai Municipal Corporation & Anr.

.Respondents

Ms. Prachi Khandge a/w. Ms.Swati Chheda i/by.M.P Vashi Associates
Advocate for Petitioner.

Ms. Oorja Dhond i/by S.K.Sonawane, for MCGM.

CORAM : SUNIL B. SHUKRE AND
M. W. CHANDWANI, JJ.

DATE : 24th JANUARY, 2023

P. C.

1. Heard learned counsel for the petitioners and learned counsel for Corporation.
2. Wherever there is a delay in filing the Chamber Summonses, the delay is condoned.
3. Learned counsel for the Corporation has opposed the Chamber Summonses. We find that the grounds stated in each of these Chamber Summonses to support of the prayers made therein deserve acceptance and we do accept them and hence the Chamber Summons are allowed in terms of prayers made therein.
4. Necessary amendments be carried out accordingly, within two weeks from the date of the order.
5. Heard both the advocates on Notice of Motion No.361/2018, which seeks following reliefs :
 - a) That pending the hearing and final disposal for the writ petition the officer of the respondent be restrained by an order and injunction of this Hon'ble Court from disturbing the petitioner from carrying out their business on the basis of the license which are validly issued in their favour.

b) That pending the hearing and final disposal of the above writ petition the officers of the Respondents be restrained by an order and injunction of this Hon'ble Court from in way manner harassing the petitioner and or confiscate the goods of the petitioner and/or confiscating the goods of the petitioner from the place where they carry on business.

c) Ad interim reliefs in terms of prayer clause (a) be granted.

6. According to learned counsel for the petitioners granting of above referred reliefs is necessary as officers of the Corporation keep on visiting the place where the petitioners are carrying on their hawking activities and keep on harassing petitioners, inspite of the fact that petitioners are licensed hawkers.

7. Learned Counsel for the corporation states that there is one order passed by this Court whereby the corporation was directed to afford pitches to the petitioners at Topiwala Municipal Market, Goregaon (West), Mumbai. This order, as can be seen from record, is passed on 18/12/2017 and directs Corporation to issue a letter of offer, to be given to all the petitioners for the pitches which can be allotted to them on the terms and conditions to be stated in the letters of allotment. This order further says

that Corporation was directed to issue these offers within a period of two weeks from 18th December 2017. According to learned Counsel for the petitioners the pitches were offered to the petitioners but as per her knowledge they were situated at a place other than New Goregaon Market. She submits that as per the Resolution of the Standing Committee, the new pitches were to be offered to the petitioners in New Goregaon Market Area and not anywhere else.

8. Learned counsel for the petitioners however, has not placed on record any letters containing offers for pitches. If these letters are placed on record a clarity about the place where pitches have been offer can be attained and that will pave the way for the disposal of this petition which is pending since 2007. Hence, we direct the petitioners and also respondents to place on record copies of the letters containing offers for pitches to each of the petitioners on the next date, on which date this petition together with this Notice of Motion is likely to be taken up for final disposal.

9. Stand over to 20/2/2023.

(M. W. CHANDWANI, J.)

(SUNIL B. SHUKRE, J.)

