

Item No.5

(Pune Bench)

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH, PUNE**

THROUGH PHYSICAL HEARING (WITH HYBRID OPTION)

**Execution Application No.07/2023(WZ)
In
Original Application No.101/2022(WZ)**

Rama Rani Arora

.....Applicant

Versus

GCZMA & Ors.

....Respondent(s)

Date of hearing: 08.09.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Applicant : Mr. Saurabh Kulkarni, Advocate
Respondent(s) : Mr. A.S. Awalgaonkar, Advocate h/f Mr. Abhay Anturkar,
Advocate for R-1/GCZMA

ORDER

1. From the side of the execution applicant, learned counsel Mr. Saurabh Kulkarni has appeared.

2. From the side of respondent No.1/GCZMA, learned Counsel Mr. A.S. Awalgaonkar holding brief of learned Counsel Mr. Abhay Anturkar has appeared, who has moved an adjournment application on the ground that learned Counsel Mr. Abhay Anturkar is unwell today and he further submits that reply affidavit has already been filed from their side. The learned Counsel for applicant is not opposing the adjournment of the matter.

3. Our attention is drawn by the learned Counsel for execution applicant to para nos.6 to 8 of the affidavit of respondent No.1, which are quoted herein below:-

“6. After completing its inquiries and hearing the concerned parties, the answering Respondent concluded that certain illegal structures had been constructed by the Respondent Nos. 4 and 5. Thus, the answering Respondent issued a demolition order dated 30.06.2022 in respect of the said structures. However, when the representatives of the answering Respondent visited the illegal structures to implement the said demolition order, various other illegal structures were also found in Survey No. 176/17. In order to verify the factual situation, the answering Respondent directed the Directorate of Settlement and Land Records to conduct a site inspection/mapping of the properties bearing Survey Nos.176/17 and 176/16-B, The answering Respondent issued a site inspection notice dated 15.09.2022 to the Applicant and Respondent Nos. 4 and 5 in this regard.

7. Thereafter, a site inspection was conducted at the aforesaid properties on 16.09.2022 by the Field Surveyors of the answering Respondent GCZMA as well as the Directorate of Settlement and Land Records. The Applicant's Manager, viz, Mr. Rajib Tontobar, and Respondent No. 4 were present during the site inspection. The site inspection team prepared a report dated 22.09.2022 which indicated the presence of certain illegal structures in Survey Nos. 176/16-B (belonging to the Applicant) and 176/17 (belonging to Respondent Nos. 4 and 5). Pursuant to the findings of the said report, the answering Respondent issued fresh show cause notices to the parties.

8. Respondent Nos. 4 and 5 produced an approved plan before the answering Respondent during the course of its hearings. In order to identify the legality of the structures in question, the answering Respondent directed the Respondent Nos. 4 and 5 to superimpose the approved structures on the plan drawn by the site inspection team. The said Respondents produced the superimposed plans before the answering Respondent on 04.05.2023. Upon inspecting the superimposed plans, the answering Respondent noticed certain discrepancies. Hence, the answering Respondent issued another Show Cause Notice cum Personal Hearing dated 04/09/2023 to Respondent Nos. 4 and 5. The answering Respondent has, accordingly, directed Respondent Nos. 4 and 5 to remain present for a personal hearing before it on 07.09.2023. The answering Respondent categorically clarified that no adjournments would be granted since this is a time-bound matter.”

4. Based on above pleadings, it is argued by the learned Counsel for execution applicant that the respondent No.1 is deliberately not carrying out the demolition order, which was passed by it on 30.06.2022 after having found certain illegal structures to have been made by the respondent Nos.4 & 5. It is also pointed out by learned Counsel for execution applicant that subsequent further illegal structures are said to have been found by the respondent No.1 at the time of inspection,

regarding which fresh notices have been issued and till 07.09.2023, hearing is said to have been conducted i.e. till yesterday. Having pointed out this, it is submitted by the learned Counsel for execution applicant that deliberately the respondent No.1 is not interested in ordering demolition of these structures, which are illegally raised by the respondent Nos.4 & 5. He has also prayed for an early hearing of this matter as the same is being adjournment today.

5. We fail to understand as to why, when a demolition order dated 30.06.2022 was passed by the respondent No.1 regarding demolition of the structures of respondent Nos.4 & 5, not having been carried out. We want a clear reply in this regard from the side of respondent No.1 by the next date.

6. We also direct the respondent No.1 to clearly state in the affidavit, as to whether the Judgment dated 22.11.2022 has been carried out or not, because if any further construction, which is said to be illegal, is found to be there made by the respondent No.4, for that separate proceedings may lie, which we are not concerned in the present case.

Put up this matter for final hearing on 19.10.2023

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

September 08, 2023
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P.Kr