

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

rpa

WRIT PETITION NO.3118 OF 2012

Ansari Iqbal Ahemad Mohd. Haroon	.. Petitioner
Vs.	
The State of Maharashtra & Ors.	.. Respondents

....
Mr.Sagar V. Kasar, Advocate for the Petitioner.
Mrs.M.P. Thakur, AGP for the Respondent Nos.1 and 2.
Mr.Ratnesh Dubey i/b. Mrs.Rutuja Ambekar, Advocate for the
Respondent Nos.3 to 5.

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**CORAM : A.S. OKA &
A.P. BHANGALE, JJ.**

DATED : APRIL 18, 2015.

P.C. :

Heard the learned counsel appearing for the petitioners and the learned counsel appearing for the 3rd to 5th respondents. The learned ASG represents the 1st and 2nd respondents. The grievance in this petition under Article 226 of the Constitution of India is as regards the failure of the 3rd respondent Municipal Corporation to take action of demolition in respect of illegal constructions allegedly carried out on plot nos.1 to 75 bearing survey no.160/2A-1 in the city of Malegaon. There is a reply filed by Sayyad Shakil Ahmed Mohammad Yusuf on behalf of 3rd to 5th respondents. He is the Town Planner of the 3rd respondent - Municipal Corporation. In the reply, though it is

disputed that the subject property is a property of Wakf Board, it is stated in paragraph 5 that the Municipal Corporation has taken action by issuing notices to all the the land owners who have made unauthorized constructions. It is stated that though complaints were filed in the police station, till date of filing of the affidavit, police protection was not granted. In paragraph no.10, a categorical statement has been made that on receipt of police protection, work of demolition shall be carried out. We accept the said statements made in the affidavit of Shri Sayyad Shakil Ahmed Mohammad Yusuf as the statements of 3rd to 5th respondents. The learned counsel appearing for the petitioner has tendered a rejoinder to which a letter of Azad Nagar Police Station dated 10th July, 2014 is annexed expressing inability to give a police protection as Ramzan was going on.

2 The Municipal Corporation has issued notices in respect of the illegal structures. Action of demolition cannot be taken unless police protection is provided. Therefore, we need not keep the petition pending and is disposed of by passing the following order:

:: ORDER ::

- (i) On applications being made by the concerned officer of the Municipal Corporation of the city of

Malegaon, along with an authenticated copy of this order, the officers in-charge of the concerned local police stations shall provide adequate police protection to the Municipal Officers as well as the Municipal staff at the time of inspection and demolition of the illegal structures;

(ii) We grant time of ten weeks to the Municipal Corporation to carry out the demolition of illegal constructions on the basis of the due process of law which has already followed by issuing the notices;

(iii) Compliance affidavit to be filed within three months from today;

(iv) Writ Petition is disposed of on the above terms.

(A.P. BHANGALE, J.)

(A.S. OKA, J.)