

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5448 OF 2012

Mr.Sanskar Marathe i/b Sahil Mahajan for the
petitioner
Mr.S.N.Patil, AGP for the respondent No.1
Mr.Nitin Gangal for respondent No.2

P.C.:

2 Shri S.S.Dhupe, the Chief Officer of the second
respondent Municipal Council filed an affidavit
dated 18th November 2013. In clause (b) of paragraph
5, it is reiterated that plot no.14 is reserved for
garden. In clause (k) of paragraph 5 of the
affidavit, following statements have been made:

“(k) for the reasons aforesaid, prayer clauses “a” and “b” may not be granted in favour of the petitioners. It is submitted that Respondent No.2 has already demolished several structures in exercise of POWER UNDER MRTTP ACT r/w DCR 1991. I say that as regards to prayer `C' Respondent No.2 submits that as on today there is no illegal construction being carried out on the subject plot, therefore question of preventing any illegal construction does not arise.”

3 The learned counsel for the petitioner submits that apart from a bare statement on oath, no document in support has been filed. The statement on oath made by the Chief Officer is that several illegal structures have been demolished and as there is no illegal construction being carried out on the subject plot, the question of preventing illegal construction does not arise. We accept the statements made in the aforesaid clause (k) of paragraph 5 of the affidavit of Shri S.S.Dhupe. If the petitioner finds that still there are any illegal structures on the plot No.14, it will be open for him to make a representation to the Chief Officer of the second respondent by pointing out the existence of illegal structures. If such representation is made, considering the stand taken in the affidavit that the plot is reserved for garden, the second respondent shall take appropriate steps in accordance with law for demolition of the

illegal structures.

4 Subject to the above direction, writ petition
is disposed of.

(A.K.MENON, J.)

(A.S.OKA, J.)