

Hvn

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11747 OF 2013

Shri Sachu Sojhrmal Chhatija,
through Power of attorney Shri Pritam
Milkiram

... Petitioners

Versus

Ulhasnagar Municipal Corporation through
Commissioner and Ors.

... Respondents

Mr. J.S. Chandnani for the petitioner.

Mr. Vijay Dinkarrao Patil for the respondent nos. 1 and 2.

Mrs. Neha Bhide, AGP "B" Panel for the respondent no. 3.

**CORAM : A.S.OKA AND
V.L.ACHLIYA, JJ.**

DATED : 21st OCTOBER, 2015

P.C. :-

1. Not on board. Taken on board.
2. Heard the learned counsel for the petitioner and learned counsel for the Ulhasnagar Municipal Council. Perused the impugned notice at Exh. D which proceeds on the footing that the petitioner has constructed the structure by making an encroachment on 100 ft wide road. The petitioner has been called upon by the said notice to remove the said structure within thirty days and cooperate with the Municipal Corporation failing which the structure will be removed. Perusal of the said notice shows that this notice is issued neither under the provisions of the Maharashtra

Municipal Corporations Act, 1949 nor under the Maharashtra Regional and Town Planning Act, 1966. Even the affidavit in reply filed by Milind Manohar Sonavani, Assistant Director of Town Planning of the Municipal Corporation is silent on the nature of the statutory powers exercised.

3. In view of this position, this petition need not be kept pending and the same can be disposed of by passing the following order :

(a) If according to the case of the first respondent, the structure of the petitioner is unauthorized, it will be open for the first respondent Municipal Corporation to follow due process of law for demolition of the structure. However, the action of demolition cannot be taken only on the basis of the impugned notice which is at Exh. D to the petition;

(b) All the contentions of the parties as regards the nature of the structure are kept open;

(c) Accordingly the petition is disposed of.

(V.L.ACHLIYA, J.)

(A.S.OKA. J.)