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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12201 OF 2013

Mrs. Manda Sanjay Gajare

..Petitioner.

V/s.

Pune Municipal Corporation and Ors.

..Respondents.

None for the petitioner.

Mr.Abhijit Purshottam Kulkarni for respondent Nos. 1 & 2.

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

DATED : 31ST AUGUST, 2015

P.C. :-

1. None appears for the petitioner. Mr.Kulkarni, the learned counsel appears for the first respondent Corporation. The substantive challenge in this Writ Petition is to the notice / order issued by the first respondent Corporation under Section 260 of the Maharashtra Municipal Corporations Act, 1949 (for short 'the said Act of 1949'). Initially, a suit was filed to challenge the said order. The plaint was rejected in view of Section 433A of the said Act of 1949. We have perused the averments made in the petition. The impugned order / notice under section 260 of the Act of 1949 proceeds on the footing that the petitioner has carried out illegal construction admeasuring 15 ft. x 35 ft. without obtaining a permission of the competent authority. The contention specifically

raised in the first paragraph of the petition is that the construction of the structure subject matter of the impugned order / notice was made on the basis of an oral permission granted by the Public Works Department. Thus, even according to the case of the petitioner, he has not applied and / or obtained permission under the said Act of 1949 and / or the Maharashtra Regional and Town Planning Act, 1966. Hence this is not a fit case to entertain a petition under Article 226 of the Constitution of India. The petition is dismissed.

(V.L.ACHLIYA, J.)

(A.S.OKA. J.)

C E R T I F I C A T E

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