

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO.438 OF 2014

Manohar Tukaram Jadhav

... Petitioner

Vs.

Mumbai Municipal Corporation & anr.

... Respondents

Mr.Uday Warunjikar for the Petitioner

Ms.Vandana Mahadik for Respondent Nos.1 & 2

**CORAM: SMT. VASANTI A. NAIK &
SHRI C.V. BHADANG, JJ.**

DATE: 10th FEBRUARY, 2015

P.C.:

By this petition, the petitioner seeks a declaration that the action of the respondent – Corporation in demolishing the structure in occupation of the petitioner is arbitrary and unreasonable and the petitioner should be paid compensation for the demolition of the same.

The petitioner claims to be in occupation and possession of the premises i.e., shop No.21 near Vikhroli Railway station, Vikhroli (West). The notice was issued by the Respondent Corporation u/s 351 of the Mumbai Municipal Corporation Act and on 3.8.2013, the structure in question was demolished by the Corporation. Since the structure was demolished, the petitioner has filed the instant petition seeking

compensation, mainly on the ground that the structures of some similarly situated persons were not demolished while demolishing the structure of the petitioner.

On hearing the learned Counsel for the parties, it appears that the relief sought by the petitioner cannot be granted.

To the notice issued by the Corporation u/s 351 of the Mumbai Municipal Corporation Act, the petitioner had failed to submit the reply and had also failed to tender the necessary documents to show that the structure was in existence prior to the datum line. The petitioner, therefore, cannot effectively challenge the action of the respondent – Corporation in demolishing the structure. The action also cannot be said to be bad in law and the relief sought by the petitioner cannot be granted merely because it is the case of the petitioner that the structure of one such persons, who was in occupation of the adjoining premises, was not demolished.

Since we do not find any merit in the writ petition, the same is dismissed with no order as to costs.

(C.V. BHADANG, J.)

(VASANTI A. NAIK, J.)