

- 1 -

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

WRIT PETITION NO.1516/2016

Shriniwas Govindrao Rahurikar.
...Petitioner..

Versus

The State of Maharashtra & others.
...Respondents...

.....

Shri A.N. Nagargoje, Advocate for petitioner.
Shri A.R. Kale, AGP for respondent nos.1 & 2.
Shri Tejas Bedre, Advocate h/f Shri V.S. Bedre, Advocate
for respondent no.3.
Shri A.S. Bajaj, Advocate for respondent no.4.

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**CORAM: R.M. BORDE &
K.L. WADANE, JJ.**

DATE: 11.08.2016

ORDER :

1] The petitioner is seeking directions to the respondent no.3 – Municipal Council to take appropriate steps to remove the unauthorized / illegal construction in pursuance to notices dated 3.11.2008 and 87.2015 within the stipulated period. According to petitioner, the respondent no.4 has raised illegal construction over CTS No.2658 situated within the Municipal limits of

- 2 -

Sangamner Municipal Council.

2] On perusal of the papers annexed to the petition, it transpires that the respondent no.4 herein had presented the suit bearing No.469/2008 claiming a decree of perpetual injunction against the Municipal Council from interfering in possession of the plaintiff over the suit property and restraining the Municipal Council from demolishing the construction without adopting the procedure of law. The suit relates to the property, which is subject matter of the instant petition. The suit presented by the respondent no.4 came to be dismissed by judgment and decree dated 29.7.2010. There was another suit presented by the respondent no.4 being Regular Civil Suit No.251/2001 wherein it was alleged that the proceedings against the plaintiff therein i.e. respondent no.4 herein have been initiated at the instance of the writ petitioner i.e. Shrinivas Govindrao Rahurikar who has lodged a complaint to the Municipal Council alleging unauthorized construction made by the respondent no.4. On entertaining the complaint, the Municipal Council issued notice and proceedings are initiated. The suit presented by the respondent no.4

- 3 -

came to be dismissed. It is alleged by the respondent no.4 that there is a dispute in respect of the house property bearing CT No.2658 between the writ petitioner and the respondent no.4 and the instant writ proceedings are outcome of the property dispute between the parties. In such circumstances, it is desirable of the petitioner to adopt the remedies available in law for redressal of his grievances. In exercise of extraordinary jurisdiction under the Constitution of India, the petition directed against an individual i.e. the respondent no.4 herein against whom the writ petitioner has personal animosity need not be entertained. The writ petition, therefore, stands rejected. However, it would be open for the Municipal Council to take appropriate steps as permissible in law so far as the violation of the Municipal Act or the Rules, if noticed by the Municipal Council.

(K.L. WADANE, J.)**(R.M. BORDE, J.)**