

FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE, BENCH AT AURANGABAD

WRIT PETITION NO.1832 OF 2016**Shaikh Dawood S/o Shaikh Babumiya and another Vs. The Chief Officer, Municipal Council, Jalna and others**

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.	Court's or Judge's orders
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Mr.H.I.Pathan, advocate for the Petitioner.

Mr.H.K.Mundhe, advocate for Respondent Nos.1 and 2.

CORAM : S.V.GANGAPURWALA, J.
Date : 21.03.2016.

PER COURT :

1. Heard.
2. The petitioner is the original plaintiff, who has filed suit for injunction along with an application for temporary injunction. The application for temporary injunction (Exh.5) is rejected. Aggrieved thereby, the petitioner has filed appeal. The appeal is also dismissed. The petitioner filed the present petition. On 15.2.2016, the Court passed an order directing parties to maintain statusquo as on 12-30 p.m.
3. Mr.Pathan, learned counsel submits that at the time when the order was passed, only shop premises was demolished. The house of the petitioner was intact. The petitioner served copy of this

order to the Respondents-authorities at 3-30 p.m. On 15.2.2016, the Respondents did not acknowledge the same. However, thereafter also they went on demolishing the house of the petitioner. The petitioner is entitled for restoration of statusquo ante. According to the learned counsel, the whole action is arbitrary and without notice to the petitioner.

4. Mr.Mundhe, learned counsel for Respondent Nos.1 and 2 submits that the illegal structure has been demolished prior to the orders being received from this Court. The petitioner does not have any case. Illegal structure has been rightly demolished.

5. Today it is admitted that the structure does not stand on the suit premises and there is only debris. The time at which the order of this Court was served upon the Respondent would be a disputed question of fact. The time when the Respondent demolished the structure would also be a disputed question of fact. The merits of application Exh.5 has now been rendered only academic as the structure itself is demolished. The petitioner in such case will have to take steps in the pending suit with regard to the relief of restoration of statusquo ante or otherwise depending upon the proof of the facts.

6. In light of the above, the Writ Petition is disposed of. No costs.

(S . V . GANGAPURWALA, J .)

Dt.21.03.2016.
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