

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.6583 OF 2016**

Dilawar Haji Abbas Ghone @ Noori ...Petitioner

Versus

Municipal Corporation of the City of
Thane & Anr. ...Respondents

...

Mr. G.S. Godbole i/b. Mr. A.A. Dandekar for the Petitioner.
Mr. Mandar Limaye for Respondent No.1.
Mr. P.P. Kakde, A.G.P. for Respondent -State.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : 27th JULY, 2016.

P. C. :

Heard Mr. Godbole, the learned counsel appearing for the
Petitioner and Mr. Limaye, the learned counsel appearing for
Respondent No.1.

2. The Petitioner has approached this court under
apprehension that the subject premises viz. Room No.1, Ground floor
of the building known as Shamshad Manzil situated at Mumbai Poona
Road, Kausa, Mumbra, Dist-Thane, is likely to be demolished by
Respondent No.1 without following due process of law. The learned

counsel for the Petitioner submits that Respondent No.1-Corporation had given notice under section 260 of the B.P.M.C. Act, 1949 in respect of the said premises and the said notice was challenged by filing a suit being Regular Civil Suit No.553 of 2008 in the Civil Court at Thane. Said suit was dismissed. However, the Petitioner challenged the decree in the suit by filing Civil Appeal No.389 of 2012 and this appeal was allowed and the notice under section 260 of the B.P.M.C. Act, 1949, was set aside by judgment and decree dated 11th April, 2014.

3. It is well settled that before taking up the demolition work, the Respondent No.1-Corporation is under obligation to follow the due process of law. Reference can be made to the decision in ***Sopan Maruti Thopte and Anr. Vs. Pune Municipal Corporation and Anr. 1996 (1) Mh.L.J. 963.***

4. Mr. Limaye, the learned counsel for Respondent No.1-Corporation does not dispute that as on today no notice under M.R.T.P. is issued by Respondent No.1 to demolish the subject premises.

5. In above circumstances, we dispose of the petition by restraining Respondent No.1 to demolish the subject premises viz. Room No.1, Ground floor of the building known as Shamshad Manzil

situated at Mumbai Poona Road, Kausa, Mumbra, Dist-Thane, without following due process of law.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)