

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 12452 OF 2016**

Hemant Namdev Lande

..Petitioner

Vs.

Pimpri Chinchwad Municipal Corporation

..Respondent

**Mr. V. A. Thorat Senior Advocate i/b Mr. R. P. Kadam for the Petitioner
Mr. D. R. More for the Respondent**

CORAM : R. M. SAVANT, J.

DATE : 16th DECEMBER, 2016

P.C.

1 The Writ Jurisdiction of this Court is invoked against the order dated 6-10-2016 passed by the State Government i.e. the Hon'ble Minister of State for Urban Development, by which order, the Appeal filed by the Petitioner came to be dismissed in terms of the observations made in the operative part of the impugned order.

2 The Petitioner herein had his structures in land bearing Gat No.445/1A/1B and Municipal House No.83/168/9 at Kasarwadi, (Nashik Phata) Bombay Pune Road, Bhosari. A notice under Section 53(1) of the Maharashtra Town Planning Act 1966 came to be issued to the Petitioner alleging unauthorised construction in respect of the said structures. It seems that after the receipt of the said notice, the Petitioner had filed a proposal for regularisation with the Respondent Municipal Corporation. The said proposal

came to be rejected by the Planning Authority i.e. the Respondent No.1 on 19-12-2011. It seems that similar notices were issued to the persons similarly situated as the Petitioner who had taken recourse to the remedy by way of an Appeal under Section 47 of the said Act, by filing an Appeal before the State Government. The Petitioner had filed a Writ Petition in this court. A Division Bench of this Court had disposed of the Petition by granting liberty to the Petitioner to pursue the said statutory remedy, to be filed within two weeks from the said date. The statement made on behalf of the Respondent No.1 that no precipitative steps would be taken was recorded by the Division Bench in its order dated 26-3-2012. The Petitioner thereafter filed the instant Appeal before the State Government. Since the Appeal was not being decided, the Petitioner had once again approached this Court by way of Writ Petition No.3642 of 2012. A Division Bench of this Court by order dated 6-7-2012 directed that the said Appeal be decided not later than 4 months from the date the Petitioner appears before the Appellate Authority. The Petitioner was directed to appear before the Appellate Authority on 16-7-2012. It seems that pending the Appeal the structures of the Petitioner came to be demolished by the Respondent. The Appeal was thereafter taken up for hearing and by order dated 6-10-2016 i.e. the impugned order. The said Appeal was dismissed. A reading of the operative part of the impugned order discloses that the Appellate Authority has taken notice of the fact that the structures have been demolished. The Appellate Authority has also adverted to the fact that on

account of the widening of the road a small portion of the land remains. The Appellate Authority has further observed that after leaving out the portion acquired from the Petitioner for widening of the 61 meter Mumbai Pune Highway and taking into consideration the open space which is required to be kept as per the ribbon rules in the remaining land, construction may be possible for which the Respondent Municipal Corporation may also consider the grant of TDR to the Petitioner on priority basis.

3 In the light of the directions which have been issued in the operative part of the impugned order and considering the fact that the land has been acquired from the Petitioner for the purposes of the widening of the 61 mtrs Mumbai Pune Highway as also considering the fact that the Petitioner's structures have already been demolished, no case for interference in the Writ Jurisdiction of this Court is made out, the Writ Petition is accordingly dismissed.

4 However, it is open for the Petitioner to follow the course of action which is propounded in the operative part of the impugned order, as also the Respondent may consider the Petitioner's case for grant of TDR on priority basis as directed by the impugned order.

[R.M.SAVANT, J]