

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION (L) NO.3572 OF 2015

Shree Balkrishna Gawade S.R.A. Sahakari
Gruha Nirman.

.. Petitioner

Vs

State of Maharashtra and Others.

.. Respondents

—

Shri Anoop Sharma i/b Shri Ghanshyam K. Tripathi for the Petitioner.

Mrs. M.Kajale, AGP for the Respondent No.1 State.

Mrs. Shobha Ajitkumar for the Respondent No.2 BMC.

Shri G.D. Utangale along with Shri Chetan Mhatre i/b Utangale & Co
for the Respondent No.5.

Shri S.V. Masurkar for the Respondent No.6.

Shri B.R.Maurya for the Respondent Nos.7 and 8.

--

CORAM : A.S. OKA & C.V. BHADANG, JJ

DATED : 6TH JANUARY 2016

P.C.

1. Not on board. Taken on board.

2. Though the Respondent No.6 was represented by a learned counsel when the order dated 4th January 2016 was passed, the Petition is again moved at the instance of Respondent No.6. On instructions, he states that it is not disputed that a new construction of a temple has been made. His contention is that the construction is being made and funded by the Respondent Nos.7 to 9. Learned counsel appearing for the Respondent No.6 submits that under the agreement between the Respondent No.6 and the Respondent Nos.7 to 9, the said Respondents are under obligation to construct a temple for the benefit of the

Respondent No.6. He does not dispute that the construction of the temple has been made without obtaining development permission. Learned counsel appearing for the Respondent Nos.7 to 9 states that the said Respondents have not constructed the temple.

3. By taking the statements made across the bar as correct, it becomes an admitted position that the temple has been constructed without obtaining development permission. If the Respondent No.6 has a contractual right against the Respondent Nos.7 to 9, it is for him to adopt appropriate remedy in accordance with law.

4. Admittedly, the construction of temple has been made without obtaining development permission and, therefore, there is no reason to modify the direction issued by this Court to demolish the temple.

5. At this stage, the learned counsel appearing for the Respondent No.6 states that the said Respondent may be permitted to apply for regularization. Admittedly, the construction of the temple is not made by the Respondent No.6. Hence, request made by the learned counsel appearing for the Respondent No.6 is rejected.