

*Nalawade*

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2463 OF 2016

Mr. Bhagwan Singh Rawat ..Petitioner.  
vs.  
The State of Maharashtra and ors. ..Respondents.

Mr. Yuwraj Patil for the petitioner.  
Smt.Vaishali Nimbalkar, AGP. for the State.  
Ms. Dhond for Respondent No.1 BMC.

CORAM: A.S.GADKARI, J.  
DATE : 09th August, 2017

P.C.

1. The present petition under Article 227 of the Constitution of India has taken exception to the order dated 19.1.2016 passed by the Additional Collector, Encroachment and Rehabilitation and Appellate Authority thereby confirming the order dated 31.7.2015 passed by respondent No.3 By the order dated 31.7.2015, the Assistance Commissioner H(W) Ward, Mumbai had directed the petitioner to demolish and/or remove the unauthorized structure admeasuring 18x10ft. constructed on the piece and parcel of land mentioned in the said order.

2. The record indicates that the respondent No.3 issued a notice dated 23.7.2015 to the petitioner under Section 3(Z)(1) (4) of the Maharashtra Slum Areas (I.C. & E) Act, 1971 and

called upon the petitioner to give explanation as to why the said unauthorized construction constructed by the petitioner admeasuring 18x10ft. having height of 24ft. with ground plus two storey structure, be demolished as the said structure was constructed after 1.1.2000. The respondent did not give any explanation to the said notice and therefore the respondent No.3 proceeded to pass the order dated 31.7.2015 thereby directing the petitioner to either demolish the said structure by himself or the competent authority would demolish the same and will recover the amount from the petitioner. It was directed that the petitioner to remove the said unauthorized structure within 24 hours from the date of receipt of the order.

3. The petitioner thereafter preferred an appeal before the respondent No.2 i.e. Additional Collector bearing Appeal No.348/2015. The Appellate Authority after taking into consideration the documents produced by the petitioner and after hearing the necessary parties has passed the impugned order thereby confirming the order passed by the Assistant Commissioner.

4. The learned counsel for the petitioner submitted that as a matter of fact the petitioner has constructed the said premises prior to 2000 and therefore, it has sanctity of law.

The record clearly indicates that there is no document

on record by which even remotely an inference can be drawn that the unauthorized structure constructed by the petitioner was infact constructed prior to 1.1.2000 and has sanctity of law and according to me both the authorities below have taken just , right and proper view while passing the impugned orders. After perusing the entire material available on record, I find that there is no error or illegality committed by both the authorities below either in law or on facts.

5. The petition is devoid of any merits and is accordingly rejected.

(A.S.GADKARI, J.)