

BDPSPS

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.5537 OF 2016**

Mrs. Sarita Dyanoba Kachi

.... Petitioner.

V/s

State of Maharashtra and Others

.... Respondents.

Mr. U.P. Warunjikar with Mr. S.A. Pilankar, Advocate for the Petitioner.

Mr. B.V. Samant, AGP for Respondent Nos. 1 and 2.

Mr. D.R. More, Advocate for Respondent No.3.

**CORAM: B. R. GAVAI &
M.S. KARNIK, JJ.**

DATE: 28th September, 2017

P.C.:-

1] Petitioner has approached this Court for direction to Respondents – Corporation for removing the unauthorized construction in front of the house of the Petitioner.

2] When the matter was listed before this Court on 04/08/2017, learned Counsel for the Municipal Corporation submitted that the learned District Judge, Pune, before whom R.C.A. No.498 of 2016 is filed by Respondent Nos. 4 to 7, has orally directed to maintain status quo till the hearing of the Application at Exhibit-5. It was also informed to the Court that the Application at Exhibit-5 was fixed for

hearing on 10/08/2017. The Division Bench, therefore, directed the matter to be kept on 04/09/2017.

3] Today, when the matter is called out, Mr. More, learned Counsel for the Corporation, states that the matter is now kept on 28/11/2017. He submits that this statement is made by him on the basis of letter written by the Counsel appearing for the Corporation in R.C.A. No. 498 of 2016 before the learned District Judge, Pune. Mr. Warunjikar, learned Counsel for the Petitioner, has filed an affidavit, stating therein that no such orders are passed by the learned District Judge, Pune.

4] We may firstly observe that orders of the Court are passed in black and white and in writing. If the learned District Judge, Pune desired that the order of status quo is to be granted in the matter then such an order should have been passed in black and white. If oral directions are passed by the Court, we highly deprecate such practice.

5] We therefore direct the Municipal Corporation to immediately move the learned District Judge, Pune within a period of two weeks from today and bring to his notice the order passed by this Court.

6] We clarify that if the learned District Judge, Pune finds that there is any case made out for grant of interim protection, he shall specifically pass such order in the appeal filed by Respondent Nos. 4

to 7. We further clarify that, if, within two weeks, no such interim protection is granted by the learned District Judge, Pune by passing a written order, Municipal Corporation shall proceed further in accordance with law for demolition of the unauthorized construction.

7] Petition stands disposed of in the aforesaid terms.

(M. S. KARNIK, J.)

(B. R. GAVAI, J.)