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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 12017 OF 2016

Chandrakant Digambar Vinchu	...	Petitioner
V/s.		
State of Maharashtra and others	...	Respondents

Mr. R.S. Kadam, for the Petitioner.
Mr. Vikas Mali, AGP for the Respondent State.

**CORAM : NARESH H. PATIL &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 3rd MAY, 2017.

P.C. :

1] The petitioner prays for the following substantial reliefs :-

“(A) That this Hon'ble Court under its Civil Appellate Writ Jurisdiction under Article 226 of the Constitution of India, 1950 be pleased to direct the respondent Nos. 1 to 3 State authority that immediately to conclude the departmental enquiry if already commenced against the respondent No.5 Mr. Pramod H. Savakhande, and if not commenced, in the light of the facts and circumstances of the present case, so also the application made by the petitioner on 18.05.2016 and 20.05.2016 to initiate the process of departmental enquiry against the respondent No.5 and the same to

be conducted expeditiously and after found the respondent No.5 guilty, he may be removed from the post of Chief Officer, with the recovery of amount that, due to his act, who has been suffered and loss caused to the State Authorities.

(B That this Hon'ble Court under its Civil Appellate Writ Jurisdiction under Article 226 of the Constitution of India, 1950 further be please to direct the respondent No. 1 to 5 State Authorities that, immediately to take action of removal of illegal construction on the house property No.307 and 308 situated at Malakpur Shahuwadi, Dist. Kolhapur as it is admitted position that, the same is illegal and by virtue of various orders, it is directed to be removed and, therefore, writ of mandamus to the authorities of respondent No.1 to 5 to comply those various orders mentioned in the petition by removing the illegal construction.

2] The petitioner's contention is that the illegal construction carried out by adjacent plot holder be removed. It is claimed that he is adjacent neighbour of the properties bearing CTS Nos.307 and 308 and the petitioner's property is bearing CTS No.306. At the petitioner's insistence, Municipal Council issued demolition notice to the persons carrying out illegal construction, but thereafter

Municipal Council has not taken any steps. It is claimed that the petitioner approached the Divisional Commissioner against inaction of the Municipal Council. Learned counsel for petitioner, therefore, seeks direction to the respondents to demolish the structure in accordance with law. Learned counsel for petitioner also placed reliance on the Government Resolution dated 2nd March, 2009.

3] In the facts, we are of the view that the question of locus of petitioner has to be seen. He is adjoining neighbour of the property on which illegal construction is being carried out. It is claimed that he had already approached the authorities including Divisional Commissioner.

4] Without expressing any opinion on merits of the matter, we dispose of the petition with liberty to the petitioner to pursue appropriate alternate remedies.

[DR.SHALINI PHANSALKAR-JOSHI, J.] [NARESH H. PATIL, J.]