

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

WRIT PETITION NO.9791 OF 2017

Anupama Shikshan Prasaran Samiti Trust & Anr.	..Petitioners
Vs.	
The State of Maharashtra, through Govt. Pleader & Ors.	..Respondents

Mr. Sudhir N. Deshpande for the Petitioners.
Mr. A. A. Alaspurkar, AGP for Respondent No.1.
Mr. A.S. Rao for Respondent No.2.

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

DATE: 7th SEPTEMBER 2017

P.C. :

. The Petitioner is challenging the order dated 8/6/2016 whereby the Petitioner was directed to remove the unauthorized structure within 8 days. The Petitioner was further informed that on failure to take steps, the Corporation would demolish the unauthorized structure and recover the amount from the Petitioner.

2. It appears that since the Petitioner did not comply with the said guidelines, the structure came to be demolished in the month of October, 2016. The Petition is filed on 24/7/2017. In the present petition also the Petitioner has not placed on record sufficient material to show that construction carried on by the Petitioner was authorized. In that view of the matter prayer clause (a) cannot be granted.

3. Insofar as prayer for direction to the Respondent/Corporation to reconstruct the building is concerned, said relief cannot be granted by this

Court. For seeking the said relief, the Petitioner will have to establish that the act of the Corporation was illegal and only upon such finding relief in terms of prayer clause (b) can be granted. We find that for doing so adjudication of disputed question of fact and law would be necessary, which would not be permissible under the extra ordinary jurisdiction under Article 226 of the Constitution. Writ Petition is accordingly rejected. It is made clear that if the Petitioner desires to take recourse of any other remedy available under law, any of the observations made herein above would not be binding.

(M.S. KARNIK, J.)

(B. R. GAVAI, J.)