

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
APPELLATE SIDE

WRIT PETITION NO. 2607 OF 2018

Amrish Gauda. ... Petitioner.  
V/s.  
Chief Officer, Ambarnath Nagar Parishad  
and another. ... Respondents.

Mr.D.S.Mhaispurkar with Mr.S.M.Mangaonkar and Ms.Nilambari  
Deshmukh for the petitioner.  
Mr.Balkrishna D. Joshi for respondent No.1.  
Mr.Y.S.Khochare, AGP for respondent No.2.

CORAM : A.S.OKA AND M.S.SONAK, JJ.

DATE : 10<sup>th</sup> October 2018.

P.C.:

Heard the learned counsel appearing for the petitioner. Perused the affidavit-in-reply of Chief Officer (first respondent). The Ambarnath Municipal Council required demolition of a part of structure of the petitioner admeasuring 9.00 sq.meters for the road widening. The contention of the first respondent is that the petitioner himself voluntarily removed the required portion admeasuring 9.00 sq.meters on the basis of the notice dated 28<sup>th</sup> December 2017. The submission of the learned counsel appearing for the petitioner is that the petitioner was forced to remove the said portion of the structure. The learned counsel appearing for the first respondent on the last date stated that at present, the Municipal Council does not desire to demolish the remaining portion of the structure of the petitioner.

2. The learned counsel appearing for the petitioner seeks permission to withdraw the petition with liberty to make representation to the Ambernath Municipal Council for grant of compensation/TDR/FSI in lieu of the area of 9.00 sq.meters. The request is reasonable and, accordingly, we pass the following order:

- (i) It will be open for the petitioner to make a representation to the first respondent and or Ambernath Municipal Council seeking compensation/TDR/FSI in respect of area of 9.00 sq.meters;
- (ii) If such an application is made, the first respondent shall decide the same in accordance with law within a period of sixty days from the date of filing of the application. The decision taken on the application shall be immediately communicated to the petitioner;
- (iii) All contentions on merit are kept open;
- (iv) Accordingly, the petition is disposed of with the above directions.

(M.S.SONAK, J.)

(A.S.OKA, J.)