

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

WRIT PETITION NO.4792 OF 2018

Shri Shantaram Ramchandra Patil

...Petitioner

Vs.

**The City Engineer, Heritage Cell &
Bldg. Development Department & Anr.**

...Respondents

Mr.Nitin Deshpande for Petitioner.

**Mr.S.B. Talekar with Ms.Madhavi Ayyappan i/b.Talekar & Associates
for Respondents.**

**CORAM : NARESH H. PATIL, ACTING C.J.
& G.S. KULKARNI, J.**

DATE: 22nd OCTOBER, 2018.

P.C.

The petitioner has shown concern about the construction carrying out in the property bearing Survey No.64 (Old CTS No.389, 390, 391, 392) (New CTS No.1232 to 1236) covered in the complex of Shree Khunya Murlidhar Devasthan Trust, Sadashiv Peth, Pune, wherein some housing scheme is under construction.

2. It is the petitioner's case that the said construction is contrary to the rules and regulations and the provisions of the Ancient Monuments &

Archaeological Sites and Remains Act, 1958. A representation dated 12th February, 2018 has also been made by the petitioner addressed to the City Engineer, Pune Municipal Corporation, Shivajinagar, Pune, which has not been decided so far according to the learned Counsel. Our attention has been invited to the order passed by the Division Bench of this Court (Abhay S. Oka and Riyaz I. Chagla, JJ.) on 16th April 2018 which reads as under:-

- "1. Not on board. Taken on board.
2. The learned Counsel appearing for the Petitioner seeks leave to amend the Petition for adding the Municipal Corporation of City of Pune as a party Respondent No.2. We permit him to carry out the amendment within a period of two weeks from the date on which this order is uploaded.
3. Issue notice to both the Respondents returnable on 14 June 2018.
4. In the meanwhile, the 1st Respondent (City Engineer) shall look into the representation (Exh.C) and will take appropriate decision."

3. Affidavit in reply has been filed by the respondent Nos.1 and 2. The learned Counsel for the Corporation inter-alia refers to paragraph Nos.13 and 16 of the reply which read as under:-

- "13. As a matter of fact, there are just three ancient monuments in and around Pune viz. two forts known as Shaniwar Wada and Aga Khan Palace, and Pathaleshwara Temple at Junglee Maharaj Road within the meaning of the 1958 Act which is now known as the Ancient Monuments and Archaeological Sites and Remains (Amendment and Validation) Act, 2010.

.....

16. I say that the judgment and order dated 11.08.2000 in First Appeal No. 145 of 1985 passed by this Hon'ble Court has attained finality, particularly when the said judgment was neither challenged nor reviewed at any point of time."

4. Considering the material placed on record and the reply filed, we do not express any opinion on merits of the petitioner's contentions and allegations.

5. The learned Counsel for the Corporation submits that in case the petitioner is aggrieved, he has alternate remedy open and no case is made out for the petitioner to espouse the cause by invoking writ jurisdiction of this Court.

6. The Corporation may communicate the decision to the petitioner within four weeks from today.

7. The writ petition stands disposed of accordingly.

G.S. KULKARNI

ACTING CHIEF JUSTICE