

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

PIL NO. 143 OF 2013

Shri. Shirish Chimanrao Bhujbal .. Petitioner

Vs.

Pune Municipal Corporation
Shivajinagar, Pune and Anr. .. Respondents

....
Mr. A.V. Anturkar Senior Advocate I/b S.B. Deshmukh
Advocate for Petitioner

Mr. Abhijit Kulkarni Advocate for Respondent Nos. 1 and 2

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**CORAM : NARESH H. PATIL, CHIEF JUSTICE &
M.S.KARNIK, J.**

DATED : NOVEMBER 19, 2018

ORAL ORDER [PER NARESH H. PATIL, C.J.]:

1. The Petitioner has filed this petition in the year 2013. The Petitioner prays for direction to Respondent – Corporation for taking steps that the entire road from Alankar Police Chowki to Naik Bridge be made 12 meter wide by removing the encroachment.

2. It is submitted that due to encroachment on the

road, at some points, the road width has become less than 12 metres which is causing inconvenience to the traffic and people residing in surrounding areas. Certain photographs are placed on record by the Petitioner in support of his contention.

3. During the course of hearing, the learned counsel for the Petitioner submitted that the Petitioner's land was also acquired for widening of the road.

4. The Respondent - Corporation filed affidavit in reply. The reply is filed by Shri. Prashant Waghmare, City Engineer, Pune Municipal Corporation, Pune. The deponent states in paragraphs 3 and 4 as under:

“3. I say that Petition is filed without obtaining relevant information from the office of the PMC and is filed on the basis of mere presumptions and assumptions. It is matter of record that as per Sanctioned Development Plan, the DP road between Alankar Police Chowki to Naik Bridge is shown to be 20 meter width. I say that since PMC was contemplating construction of the said DP road and therefore PMC had issued notice dated 22.02.2006 to the Petitioner

herein. In the year 2009 PMC had issued tender for construction of road and same was published in the daily newspaper Lokmat. However as of today no construction of the DP Road has been carried out.

4. I say that Petition proceeds on the presumption that since tender notice was issued and therefore road has to be of 12 Meter wide. I say that, however pursuant to the publication of tender, no construction of road was carried out. Petition further makes assertion regarding existence of the encroachment on the 20 Meter wide DP road however no detail particulars are given. I say that the existing road is of 5 Meter width in between Girija Shankar Vihar and Tara Residency however same is because the DP road is yet to be constructed in full width. That does not necessarily mean that there is encroachment at particular point. Invoking writ Jurisdiction without laying concrete foundation is not sustainable in law.”

5. The counsel for the Corporation submits that subject road is the proposed DP road. Though substantial portion of the road is constructed, the entire development of the road is to take place after the DP is finalized and or

Corporation takes an appropriate decision in respect of the widening of the road and removal of the encroachment.

6. The Corporation would take appropriate decision as early as possible in the larger interest of the people residing in the area considering the traffic condition, in accordance with law. While taking such decision, the Development Plan of the City shall also be taken into consideration.

7. PIL is disposed of.

M.S.KARNIK, J.

CHIEF JUSTICE