

Sharayu Khot.

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

WRIT PETITION NO. 13700 OF 2017

Rajesh Vishnu Chodankar **...Petitioner**

Versus

**Ulhasnagar Municipal Corporation &
Ors.** **...Respondents**

**WITH
CIVIL APPLICATION NO. 1690 OF 2018
IN
WRIT PETITION NO. 13700 OF 2017**

Anil Asandas Chanchlani **...Applicant**

In the matter between

Rajesh Vishnu Chodankar **...Petitioner**

Versus

**Ulhasnagar Municipal Corporation &
Ors.** **...Respondents**

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Mr. Vikram N. Walawalkar, i/by Mr. Sambhaji M. Kharatmol, for
the Petitioner.

Mr. N.R. Bubna, for the Applicant in CAW/1690/18.

Mr. Suresh M. Kamble, for the Respondents No. 1 to 3.

Mrs. R.A. Salunkhe, AGP, for the Respondent No. 4.

**CORAM : ABHAY S. OKA AND
RIYAZ I. CHAGLA, JJ.**

DATE : 8 August 2018

ORDER :

1. Heard the learned Counsel appearing for the Petitioner and the learned Counsel appearing for the 1st to 3rd Respondents.

2. Considering the order which we propose to pass, the notice to the 4th Respondent is not necessary. We have also heard the Applicant in Civil Application No. 1690 of 2018.

3. The learned Counsel appearing for the 1st to 3rd Respondents has filed an Affidavit of Shri. Bhagwan Kumawat,

the Assistant Commissioner of the 1st Respondent in which he has stated that on 30th July 2018, the Petitioner and the Applicant in the Civil Application were called for hearing before the Municipal Commissioner, but the Petitioner sought time. The learned Counsel appearing for the 1st to 3rd Respondents states that the Municipal Commissioner is willing to immediately hear the parties.

4. The learned Counsel appearing for the 1st to 3rd Respondents states that the structures subject matter of this Petition is proposed to be demolished on three grounds. The first ground is that the subject structure is completely illegal, the second is that the structure is in a dilapidated condition and the third ground is that it obstructs access to the theater of the Applicant in the Civil Application including the access of fire brigade vehicles. The learned Counsel appearing for the Petitioner states that the Petitioner is willing to appear before the Municipal Commissioner or the officer nominated by him on 21st August 2018 for hearing. The learned Counsel appearing

for the Applicant in the Civil Application states that even the Applicant will appear for hearing on that day.

5. As the Petitioner is made aware of the grounds of which there is a proposal to demolish the subject structure, the Petitioner is free to file a Reply raising appropriate contentions and produce appropriate documents on 21st August 2018 or even before the said date.

6. Accordingly, we dispose of the Petition by passing the following order:-

- (i) We direct the Petitioner and the Applicant in Civil Application No. 1690 of 2018 to remain present in the office of the Municipal Commissioner of the 1st Respondent on 21st August 2018 at 11.30 a.m. Both the Petitioner and the Applicant in the Civil Application No. 1690 of 2018, are entitled to file a Reply and

produce the same along with documents on the same day;

(ii) However, no further time shall be granted to both of them;

(iii) The Municipal Commissioner or the officer nominated by him shall give hearing to the parties and shall pass an appropriate order in accordance with law within a period of six weeks from 21st August 2018 and that the said order shall be served to the Petitioner and the Applicant in the Civil Application;

(iv) If the order of demolition is passed, the same shall not be implemented from the date on which the same is served to the Writ Petitioners;

(v) We make it clear that we have made no

adjudication on the merits of the controversy
and all questions are left open to be decided by
the Municipal Commissioner or his nominee;

- (vi) Writ Petition and the Civil Application stand
disposed of in the above terms.

[RIYAZ I. CHAGLA J.]

[ABHAY S. OKA, J.]