

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
PUBLIC INTEREST LITIGATION NO. 51 OF 2015**

Mrs. S.G.P.Barnes

.. Petitioner

v/s.

The Commissioner of BMC/MMC
& Ors.

..Respondents

Mrs. S.G.P. Barnes Petitioner in person.
Mr. Sagar Patil for the MCGM.

**CORAM : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED : JULY 10, 2018.

Prasanna
Pradeep
Salgaonkar

P.C. :

Digitally signed
by Prasanna
Pradeep
Salgaonkar
Date:
2018.07.12
17:40:37 +0530

1. The main grievance in this petition is about the illegal construction of an temple on the public road between BMC Jogger Park garden and the public road for garden attached to the compound wall of Smt. Meenabai Tackeracy Udyan (BMC Garden). Ramesh Nagar, Ambivli in Amboli, Andheri (West), Mumbai 58. On behalf of BMC, Mr. Prakash Birje, Assistant Engineer (Maintenance) K/W Ward has filed an affidavit dated 16th March, 2017. In

paragraph 4(b) and 4(c) he has made following averments:

(b) I say that a notice dt. 23.11.2016 was issued by these respondents to the Shiva Mandir and the same was passed on the temple on 23.11.2016. These respondents did not receive any reply from the temple authorities. Accordingly, demolition programme was arranged on 21.12.2016 and the shiva temple was demolished by these Respondents on 21.12.2016 with the help of Amboli Police Station. Hereto annexed and marked Exhibit 1 is the copy of the notice dtd. 23.11.2016 and Exhibit 2 is the copy of the demolition report and demolition photographs.

(c) I say that the notice structure is already demolished by these respondents on 21.12.2016.”

2. The petitioner concedes that the illegal structure /temple has been demolished. However, her grievance is that, the said illegal structure was demolished earlier. She contends that one Tallappa Rama Kuchikar reconstructs the temple/structure. She apprehends that though at present the illegal structure is demolished, said Kuchikar would once again reconstruct the same.

3. In the above circumstances, we dispose of the petition with direction to the BMC to ensure that no illegal structure/temple is reconstructed on the said area i.e. on the public road between BMC Jogger Park garden and the public road for garden attached to the compound wall of Smt. Meenabai Tackeracy Udyan (BMC Garden). Ramesh Nagar, Ambivli in Amboli, Andheri (West), Mumbai 58.

4. Petition is accordingly disposed of.

(ANUJA PRABHUDESSAI, J.)

(RANJIT MORE, J.)