

R.M. AMBERKAR
(Private Secretary)

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

WRIT PETITION NO. 2549 OF 2018

Arjinder Singh Purewal

.. Petitioner

Versus

The Mumbai Municipal Corporation & Ors. .. Respondents

-
- Ms. Aditi Naikare i/by Mr. Pradeep J. Thorat for the Petitioner
 - Mr. Rajesh Singh for Respondent No. 3
 - Ms. Sheetal Metakari for MCGM
-

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

DATE : OCTOBER 24, 2018.

P.C.:

1. The petitioner has preferred this petition making the following prayers:-

- a) That this Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ in the nature of Mandamus directing the Respondent Nos. 1 & 2 to take action to stop the ongoing unauthorized work of construction of 2nd floor and demolition of the existing ground + 1 upper storeyed structure situated on Plot No. 113A, Shere Punjab Co-op. Housing Society Ltd., Mahakali Road, Andheri (East), Mumbai being carried out by Respondent No. 3;
- b) That pending the hearing and final disposal of the present Writ Petition this Hon'ble Court may be pleased to issue a Writ of

Mandamus or any other Writ in the nature of Mandamus directing the Respondent Nos. 1 & 2 to issue appropriate Notice under MRTTP Act, 1966 or Mumbai Municipal Corporation Act, 1888 in respect of the unauthorized construction and demolition of the existing structure which is already carried out by the Respondent No. 3 on the Plot No. 113A, Shere Punjab Co-op. Housing Society Ltd., Mahakali Road, Andheri (East), Mumbai;

- c) For interim and ad interim reliefs in terms of prayer (b) above;
- d) For such and further relief, as per the nature and circumstances of the case, as this Hon'ble Court may deem fit and proper may please be granted.

2. On behalf of the Corporation, affidavit of Mr. Pandurang Namdeo Dabhade, Assistant Engineer (B & F) K/E Ward, has been filed. Paragraphs 1 and 2 of the affidavit reads thus:

- 1. I say that as per direction of the Hon'ble Court's order dated 4th July, 2018, I have inspected the site of subject matter of the petition along with Sub Engineer (Building Proposal) K/East ward, on 19.07.2018. On inspection, it is observed that there was no notice work in progress (i.e. illegal staircase and 2nd floor centering work). However, plastering and other internal minor work was in progress. hereto annexed and marked at Exhibit-I is the copy of Inspection report dated 19.07.2018 along with photographs.

2. I say that on site visit Shri. Dharmesh Lamba, Respondent No. 3 shown plan to Sub Engineer (Building Proposal) K/East Ward. After scrutiny of plan Sub Engineer (Building Proposal) informed that the 2nd floor is approved as per approved plan of E.E. (B.P.) W.S.I. under No. CE/8107/BS/II/AK of 23.04.1979. However, the staircase which is found constructed illegal and same will be demolished by following due process of law.

3. Learned counsel for respondent No. 3 submits that the staircase which was objected to by the petitioner has already been removed. On this statement made by the learned counsel for respondent No. 3, we are not inclined to interfere into the matter, however, if the petitioner still has some grievance, he may resort to alternate remedy. The petition is disposed of.

[G.S. KULKARNI, J.]

[ACTING CHIEF JUSTICE]