

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO.2888 OF 2016**

Abdul Qayyum Alauddin AthaniaPetitioner
versus
M/s. Hitech Hafizi Town Developers and ors.Respondents

Mr. S. M. Gorwadkar, senior advocate i/b. Mrs. Sana Y. Bangwale,
advocate for the petitioner.
Mr. P. J. Thorat along with Mr. Deepak Chitnis i/b. Ms/. Deepak Chitnis-
Chiparikar and Co., advocates for the respondent Nos.1 to 3.
Ms. Sheetal Metkari, advocate for the MCGM.

**CORAM : RANJIT MORE &
REVATI MOHITE DERE, JJ.**

DATE : 3rd DECEMBER, 2018.

P. C. :

Mr. Gorwadkar, learned senior counsel for the petitioner, submitted that the respondent Nos. 1 to 3 had building permission up to 12th floor and contrary to the building plan, they constructed upto 19 floors. He submitted that the BMC passed an order on 29th January, 2014, directing the respondent Nos.1 to 3 to demolish their unauthorized construction. Challenge to this order by the respondent Nos.1 to 3 was dismissed and, despite this, the BMC has not taken any action for demolition of the said unauthorized construction. Thus, the petitioner wants implementation of the order dated 29th January, 2014.

2. Mr. Thorat, learned counsel for the respondent Nos. 1 to 3, invited our attention to the affidavit in reply filed by the respondent

No.2 and submitted that subsequent to the said order, an application was made to respondent Nos.1 to 3 for regularization of the said unauthorized construction. The said application was granted on payment of penalty. The penalty is paid. In the year 2017, revised plan for ground plus 28 floors was submitted and the same was sanctioned. He also submitted that commencement certificate was granted to the respondent Nos.1 to 3 in respect of the ground plus 20 floors and construction upto to 20th floor is completed. The learned counsel for the Corporation, on instructions of the officer concerned who is present before the Court, does not dispute the contention of Mr. Thorat, learned counsel for the respondent Nos.1 to 3.

3. In the light of the above, we find that much water has flown after passing of the order dated 29th January, 2014. The petitioner's revised plans are sanctioned and construction of ground plus 20 floors is already completed which is accordance with the commencement certificate.

4. In the light of the above, we find no merit in the petition and the same is dismissed.

[REVATI MOHITE DERE, J.]

[RANJIT MORE, J.]