

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 3614 OF 2019

Rajendra S/o Pralhad Rathod
& another

Petitioners

Versus

The State of Maharashtra
& others

Respondents

Mr.U.L. Momale , advocate for petitioners.
Mrs. R.P. Gour, AGP for Respondent no. 1.
Mr. A. P. Bhandari, advocate for respondents no. 2 and 3.

WITH
WRIT PETITION NO. 3629 OF 2019

Abdul Majid Khan
S/o Abdul Rahim Khan

Petitioner

Versus

The State of Maharashtra
& others

Respondents

Mr.M.P. Tripathi, advocate for petitioner.
Mrs. R.P. Gour, AGP for Respondent no. 1.
Mr. A. P. Bhandari, advocate for respondent no. 2.

**CORAM : PRASANNA B. VARALE AND
NITIN W. SAMBRE, JJ.
DATE : 26th March, 2019.**

P.C. :

Learned counsel for petitioners, on instructions, submit that they are pressing prayer 'B' to the petition as the structure which is styled to be illegal is already demolished.

2. Mr. Bhandari, learned counsel for respondent-Corporation has filed affidavit of the Assistant Director, Town Planning, Municipal Corporation, Aurangabad, and submits that the possession of the property owned by the petitioners will not be taken without following due process of law.

3. Since the submission is made on instructions, the same is accepted.

4. In Writ Petition No. 3637 of 2019, Mr. Nipun Vinayak, the Commissioner, Municipal Corporation, Aurangabad, has filed an affidavit sworn on March 23, 2019, para 5 of which, reads as under :

05 I say that possession of lands on which construction is /was standing is not taken by the answering respondent. For taking over possession, in case such contingency arises, Municipal Corporation Aurangabad will take appropriate action in accordance with the provisions of Maharashtra Regional and Town Planning Act, 1966, development control and Promotion Regulations (DCPR), as applicable to the area and the provisions of Maharashtra Municipal Corporation Act.

5. Mr. Bhandari, learned counsel appearing for the respondent-Corporation submits that the affidavit of the Commissioner deals with issue of special drive by the Corporation to demolish alleged illegal structures. According to him, aforesaid paragraph can be read in all the matters wherein the Corporation has recourse to provisions of the Maharashtra Regional and Town Planning Act,

1966, in case possession of private property is required for expansion of the road.

6. Though the affidavit, referred to above, is filed in Writ Petition No. 3637 of 2019, Mr. Bhandari, learned counsel for the respondent-Corporation submits that the said affidavit can be read in all the petitions involving similar nature of claim like the one in the present petition. According to him, said statement can also be considered as an undertaking to this Court.

7. Since the statement is made on instructions, the statement made in the affidavit, particularly in the paragraph reproduced hereinabove, as such, is accepted.

4. In view of above, both the petitions can be disposed of and are accordingly disposed of.

NITIN W. SAMBRE
JUDGE

PRASANNA B. VARALE
JUDGE

dyb