

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 3770 OF 2019

Abdul Wahab Abdul Wali	... Petitioner
Versus	
The State of Maharashtra and others	... Respondents

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Mr. Mahesh R. Sonwane, Advocate for Petitioner.
 Ms. M.A. Deshpande, AGP for the State.
 Mr. A. P. Bhandari, Advocate for Respondent Nos. 2 and 3.

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**CORAM : PRASANNA B. VARALE
AND
NITIN W. SAMBRE, JJ**

DATED : 04th APRIL, 2019

PER COURT:-

1. Learned Counsel for petitioner, on instructions submits that the petitioner has removed the portion of illegal structure which have been affected for development of further construction of D.P. road.
2. Only limited prayer made by the learned counsel for the petitioner that he may not be dispossessed without following the due process of law.
3. 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.

4. Shri 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 petitions 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.

5. Though the affidavit, referred to above, is filed in Writ Petition No.3637 of 2019, Shri Bhandari, learned Counsel appearing for the Respondent Commissioner, Aurangabad Municipal 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.

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

7. In view thereof, present writ petition can be disposed of and is accordingly disposed of.

(NITIN W. SAMBRE)
JUDGE

(PRASANNA B. VARALE)
JUDGE

SMS