

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

WRIT PETITION NO. 14341 OF 2018

Sai Shraddha Developers through
Partner Sunil Rambhau Shinde .. Petitioner

Versus

The State of Maharashtra and others .. Respondents

Shri D. S. Bagul, Advocate h/f Shri Vishnu B. Madan, Advocate
for the Petitioner.

Mrs. A. V. Gondhalekar, Addl.G.P. for Respondent Nos. 1, 3 to 5.
Shri Vikram R. Dhorde, Advocate for the Respondent No. 2.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVALA, JJ.**

DATE : 04TH MARCH, 2019.

FINAL ORDER :

. We have heard Mr. Bagul, the learned advocate for the petitioner, Mr. V. R. Dhorde, the learned advocate for the respondent No. 2/Municipal Council and Mrs. Gondhalekar, the learned Additional Government Pleader for respondent Nos. 1, 3 to 5.

2. According to the petitioner 40% construction has been completed as per the construction permission. The petitioner places reliance on the certificate issued by the Chartered

Accountant. According to the petitioner, if, such a construction has been initiated, the respondents cannot stall the construction, nor can consider with regard to the legality of the construction permission granted. The learned counsel relies on the judgment of the Division Bench of this Court in a case of **Hansa Dattatraya Moodliar and others Vs. Pune Municipal Corporation and others** reported in *1998(3) Mh.L.J. 10*.

3. It is not disputed that prior to issuance of the order dated 26th September, 2018, the petitioner was not issued with the show cause notice, nor the petitioner was heard. In fact, prior to passing such an order, it would have been appropriate, for the respondents to have issued notice to the petitioner and called for the say.

4. Considering the aforesaid aspects of the matter, we direct that the impugned communication dated 26th September, 2018 (Exhibit - G) shall be construed as show cause notice to the petitioner. The petitioner shall file his say to the same within a period of seven days from today. On receipt of say, the planning authority shall take decision in respect of the same within a period of one (01) month from the date of receipt of reply. Till the authority decides with regard to the construction permission of the petitioner, the petitioner shall not carry on further construction. The parties may take appropriate steps upon the

decision taken by the planning authority. The writ petition is disposed of. No costs.

5. The parties to act on authenticate copy.

[A. M. DHAVAL, J.]

[S. V. GANGAPURWALA, J.]

bsb / March. 19