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IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****PUBLIC INTEREST LITIGATION NO. 196 OF 2013**

Mr. Vasant Ganesh Dabke

.....Petitioner

V/s.

The State of Maharashtra, through Secretary,
Public Works Dept and others

.....Respondents

Mr. Makarand Kale for the petitioner
Mr. M. M. Pable AGP for respondent State
Mr. K. K. Jadhav for respondent No. 5
Mr. A. V. Pawaskar for respondent No. 9**CORAM : PRADEEP NANDRAJOG, CJ. &
N. M. JAMDAR, J.****DATE : APRIL 26, 2019.****P.C.**

On land bearing Survey Nos. 199 and Hissa No. 1 (prt), that is C.S. No. 553, 554 & 555 there existed a building owned by the Grampanchayat of Jalgaon. The title of the land in the Grampanchayat and the ownership of the building has been admitted by the petitioner. The grievance in the petition is that in the year 2009, the existing building which had become old was

demolished and new building was constructed. The petitioner claims that he thought that the reconstruction of the building was after obtaining the necessary sanctions and thus he overlooked the same. He pleads that he subsequently learnt that the Grampanchayat had not obtained necessary sanctions to demolish the old construction and erected a new building.

2 Aware of the fact that his complaints had activated District Collector and probably the Grampanchayat would seek regularisation of the new building constructed, it is pleaded in the petition that the building cannot be regularised because it is within 50 meters of the centre of a highway.

3 The response filed by the Sub-Divisional Officer is to the effect that ex-post facto sanction by way of regularisation was received from the Panchayat. The affidavit refers to the correspondence between the Grampanchayat and various officers at the Tahsil, Sub-Divisional and District Collector. Affidavit states that Town Planning Office did not take a final decision in view of pendency of the instant

Public Interest Litigation.

4 It is not the case where a builder constructing unauthorised structures to sell the same to innocent purchasers. It is not a case of land grabbing. It is the case where an old building existing on the land owned by the Grampanchayat was demolished and a new building constructed.

5 Grampanchayat ought to have obtained necessary permissions and sanctions. But since law permits ex-post facto sanctions to be accorded, we note that Grampanchayat has done so.

6 The petitioner's contention that the new structure cannot be regularised because it is within 50 meters of the centre of the highway is noted and rejected by us for the reason the new building replaces the old building which was in existence prior to the highway being laid in the area.

7 We dispose of the petition directing the Town Planning

Department of Ratnagiri to proceed ahead with the proposal received from the Grampanchayat to regularise the construction which as per affidavit filed was kept on hold on account of the pendency of the instant petition.

8 Petition is disposed of.

N. M. JAMDAR, J.

CHIEF JUSTICE