

SAS-NITIN

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.994 OF 2015

WITH

WRIT PETITION NO.17 OF 2015

Anuradha Shantanu Gandhi

..Petitioner.

V/s.

Solapur Municipal Corporation & Ors.

..Respondents.

Mr.Surel S.Shah for the petitioner.

Mr.D.G.Dhanure for respondent Nos.1 to 3.

Ms.Veena Thadani for respondent No.4.

**CORAM : S.J.KATHAWALLA AND
B.P.COLABAWALLA, JJ.**

DATE : DECEMBER 11, 2019

P.C. :-

1. By the above Writ Petition, the Petitioner is seeking the following reliefs :

“(a) A Writ of Certiorari of any other appropriate Writ be issued and record and proceedings of the case be called for and after examining this Court may be pleased to quash and set aside the orders 05/12/2013 and 27/11/2014.

(b) A Writ of Mandamus or any writ in the nature thereof

be issued directing Respondent Nos.1 to 3 to forthwith demolish the said authorised structures totally admeasuring 1641 Sq. ft. occupied by respondent No.4 situated at Division and Sub-district Solapur at Taluka North Solapur, City of Solapur, Peth Murarji, Municipal House No.12A, CS No.IE/2/A/1/10, and further direct Respondent Nos.1 to 3 not to recover double taxes from the petitioner in respect of the said property.

(c) Pending the hearing and final disposal of the petition, this Court may be pleased to stay both the impugned orders dated 5/12/2013 and 27/11/2014.”

2. Under Section 267A of the Maharashtra Municipal Corporation Act, 1949 (**MMC Act**), penalty is payable on the unlawful construction carried out in the building so long as such construction remains. The question therefore of quashing the orders by which such penalty is levied does not arise. However, learned Advocate for respondent No.4 states that the Petitioner who has alleged that the illegal construction is put up by respondent No. 4 is including the penalty amount in the bills forwarded by him to the respondent No. 4, who in turn is making payment to the Corporation. It is also submitted that disputes between the Petitioner and Respondent No. 4 are pending in

Court.

3. In view of the above, respondent No.4 shall continue to pay the said penalty amount to the Corporation. As far as the prayer for demolition is concerned, the Corporation is directed to look into the grievance and take necessary action by following due process of law.

4. Both the Writ Petitions are disposed of in the above terms.

(B.P. COLABAWALLA, J.)

(S.J. KATHAWALLA, J.)