

Shri.Dattatraya Keshav Tapkir } Petitioner
versus
The Pune Municipal Corporation } Respondents
and Ors. }

Mr.A.P.Kulkarni for respondent nos. 1
and 2.

DATED :- JUNE 3, 2019

1. The issue raised in this petition and particularly of the constitutional validity of section 433A of the Maharashtra Municipal Corporation Act, 1949 is rendered academic. This very Bench, in the case of *Abdul Karim Ahmed Mansoori vs. The Municipal Corporation of Greater Mumbai and Ors.* (Writ Petition No.2237 of 2013) decided on 13th September, 2013, considered the issue of constitutional validity of a similar provision, namely, section 515A of the Mumbai Municipal Corporation Act, 1888.

2. In the light of this decision, it is clear that no general rule can be laid down and the applicability of the bar will have to be examined in the backdrop of the facts and circumstances of each case. Naturally, therefore, the petitioner will have to satisfy the civil court, in the event the plea or bar is raised, that the suit is still maintainable. We do not think that we should express any opinion on that aspect, particularly when the civil suit is pending. Both sides can make appropriate submissions and the civil court can render a decision. We do not think that anything survives in the writ petition. It is disposed of by keeping all contentions of both sides open.

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)