

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 5191 OF 2016

Sunetra Suresh Dolas

... Petitioner

Versus

Municipal Corporation for the City of

Thane and Ors.

... Respondents

ALONG WITH
WRIT PETITION NO. 5190 OF 2016
WITH
WRIT PETITION NO. 5202 OF 2016

Mr.Somnath T. i/b. Mr.Sachin Dhakephalkar for the Petitioner.

Mr.N.R.Bubna for Respondent Nos. 1 to 3.

Mr.A.R.Gole for Respondent No. 4.

CORAM : S.J. KATHAWALLA, &
B.P. COLABAWALLA, JJ.
DATE : 19TH NOVEMBER, 2019

P.C.:

1. By consent, the above Writ Petitions are taken up for final hearing.
2. The above Writ Petitions are filed by the Petitioner Landlord for the following relief :

“(a) This Court be pleased to issue Writ of Mandamus, or a Writ, Order or direction in the like nature or any other appropriate Writ, Order or direction thereby directing

Respondent Nos. 1 to 3 to take action against Respondent No. 4 pursuant to the Notices dated 11th February, 2014 and 28th October, 2014 issued by Respondent No. 3 i.e. Assistant Commissioner under Section 260 (1) and (2) of Maharashtra Municipal Corporation Act, 1949 regarding unauthorized construction constructed by Respondent No. 4 in front of his tenanted premises.”

3. The learned Advocate appearing for Respondent No. 4 on instructions states that his Client has already removed the structures, which forms the subject matter of Notices dated 11th February, 2014 and 28th October, 2014 issued by Respondent No. 3 under Section 260 (1) and (2) of Maharashtra Municipal Corporation Act, 1949. He has later stated that he is not sure whether the structures have been removed by his Client or not.

4. The said Notices have not been challenged by Respondent No. 4 in the last five years. Except for stating that the action is vindictive, there is no substantial defence. Even if the action is vindictive, if the structures are unauthorized as regards which the Corporation have issued the said Notices five years back, and such Notices are not challenged by Respondent No. 4 till date, the Corporation is bound to comply with the said Notices and remove the offending structures. The Corporation is therefore directed to act on the Notices dated 11th February, 2014 and 28th October, 2014 and forthwith demolish the unauthorized structures in the event of the

Respondent No. 4 not having demolished the unauthorized structures.

5. The Senior Inspector of the local police station shall provide adequate protection if required to the officials of the Corporation to enable them to comply with this Order.

6. The above Writ Petitions are accordingly disposed off.

(B.P. COLABAWALLA, J.)

(S.J.KATHAWALLA, J.)