

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4849 OF 2019

Devichand Mishrimal Solanki

.... Petitioner

Vs.

State of Maharashtra & Others

.... Respondents

Mr. Pravartak S. Pathak for the Petitioner.

Ms A.A. Purav, AGP, for the Respondent-State.

CORAM: S.C. DHARMADHIKARI &
B.P. COLABAWALLA, JJ.

DATE : APRIL 15, 2019

P.C:

Heard Mr. Pathak. We do not see how in writ jurisdiction we can resolve highly contested and disputed issues, particularly in relation to a public property. The allotment of a public property/Government land to the petitioner dates back to the sixties. Pursuant to that allotment, a structure was constructed and which structure thereafter required repairs. The allegation of the Municipal Corporation is that in the garb of carrying out repairs the petitioner has substantively developed

the property. Thus, this is a case of a permission being granted for repairs but allegedly in that garb the development is carried out. That is without complying with Section 44 of the Maharashtra Regional and Town Planning Act, 1966 and the relevant and applicable Municipal Legislations. We do not think that we can order and direct regularisation of what has been done at the site, particularly when the petitioner himself has brought a Civil Suit against the Government in the trial Court and that is pending. There are protective orders issued therein as well. All the more, therefore, we are disinclined to exercise our jurisdiction under Article 226 of the Constitution of India. The petition is dismissed.

(B.P. COLABAWALLA, J.)

(S.C. DHARMADHIKARI, J.)