

Ayyub Manjoor Ahmed Shaikh	...	Petitioner
versus		
Municipal Corporation for the City of Bhiwandi Nizampur and Ors.	...	Respondents

Mr. K.M.Chaturvedi with Mr. C.S.Patil, for Petitioners in Contempt Petition.
Mr. A.S.Pandire & Mr. Shailesh Chera, for Petitioner in WP.
Mr. S.D.Vyas, B Panel Counsel, for State.
Mr. Wasim Ansari with Mr. Raju Yamgar, for Respondent Nos.1 to 3.

**CORAM: S.J. KATHAWALLA &
B.P.COLABAWALLA, JJ.**
DATE: 29th NOVEMBER, 2019

1. By the above Writ Petition, the Petitioner has sought directions against Respondent Nos.1 to 3 to take action against Respondent No.4 pursuant to the notice dated 3rd April, 2013 issued by them under Sections 52 to 55 of the Maharashtra Regional and Town Planning Act, 1966 and also under Sections 232, 260(1) & (2), 268 and 478 of Bombay Provincial Municipal Corporation Act, 1949 regarding unauthorized construction constructed by the Respondent No.4 on Old House No.676 and 677 at Nagaon-1, Bhiwandi.

2. A Civil Application No.2952 of 2015 was filed by the Applicant – Khurshid Abdul Shaikh (original Respondent No.4 in the aforesaid Writ Petition) which was heard by this Court on 29th October, 2015 and an undertaking was recorded to the effect that the Applicant and all the occupants of the building will file unconditional undertakings to the following effect :

- “(a) If the Applicant fails to apply for regularization within the time specified by this Court, immediately on expiry of the said period, the occupants will unconditionally hand over possession of the respective premises in their possession to the Court Receiver;*
- (b) If the application for regularization is made within stipulated time and is rejected, within a period of six weeks from the date on which the application is rejected, the occupants will unconditionally handover the possession of the respective premises to the Court Receiver;*
- (c) In the event of failure of the occupants to hand over possession within the specified time, it will be open for the Court Receiver and the Bhiwandi Nizampur Municipal Corporation to take forcible possession of the premises with the help of the police;*
- (d) That they have no objection for the appointment of the Court Receiver in respect of the entire building and for their appointment as agents of the Court Receiver;*
- (e) That they will pay cost and charges of the Court Receiver appointed in terms of order dated 6th August, 2015;*
- (f) That they will pay a sum of Rs.50,000/- to the Bhiwandi Nizampur Municipal Corporation, which is already deposited by the said Corporation in the Civil Court;*
- (g) That they will not create any third party interests and will not part with possession of their respective premises; and*
- (h) The Applicant and all other occupants will withdraw the Civil Suits filed by them and shall not file any further proceedings in respect of the building;”*

3. Subsequent thereto, regularization application was made before the Bhiwandi Nizampur Municipal Corporation and the same was rejected. Thereupon,

as per the above referred undertakings, the Applicant and the other occupants of the building were required to handover vacant possession of the premises to the Corporation to enable the Corporation to demolish the same. However, the same was not done and therefore, the above Contempt Petition is filed by the Original Petitioner.

4. The learned Advocate appearing for the Contemnors-Respondent Nos.1 to 3 has informed the Court that they have already handed over possession of their respective premises to the Court Receiver as per the undertakings given to the Court and that they have no objection to the building being demolished. The Court Receiver shall therefore, handover possession of the subject building to the Corporation, who shall thereafter, demolish the same. This entire exercise shall be carried out/completed within a period of two weeks from today.

5. In view of this order, the above Contempt Petition as well as Writ Petition stand disposed off.

(B.P.COLABAWALLA, J.)

(S.J.KATHAWALLA, J.)