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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION***

PUBLIC INTEREST LITIGATION NO. 1 OF 2015

Mr. Dagadu Sudamrao Khandave and Anr. ... Petitioners.

V/s.

The State of Maharashtra and Ors. ... Respondents.

Mr. Hemant Ghadigaonkar for the Petitioners.

Mr. A.I. Patel, AGP for Respondents 1 to 3.

***CORAM : NARESH H. PATIL, C.J. &
N.M. JAMDAR, J.***

DATE : 4 JANUARY, 2019.

P.C. :-

This Public Interest Litigation filed in the year 2015 has raised an issue concerning an alleged unauthorized construction put up by the Respondent No.5 – Trust on the lands owned by the State Government.

2. The Petitioner has placed reliance on the entries in the City Survey records at Exhibit A. It is further submitted by the

Counsel that, on the Petitioner's complaint the Collector, Pune had directed the Tahsildar, Haveli, by a communication dated 29 December 2012 for conducting an enquiry. It is submitted that thereafter, no steps were taken to stop the alleged unauthorized construction. The Petitioner has prayed for directions to Respondent Nos. 1 to 4 to take necessary action in accordance with law against the illegal and unauthorized construction and encroachment carried out by Respondent No.5 – Trust on the said property.

3. By an order dated 4 December 2015 the Court had issued notice to Respondent No.5. The Petition came to be dismissed by an order dated 7 February 2018 for want of service of notice. The learned Counsel submits that the Petition came to be dismissed against Respondent No.5 by order of the Registrar (Judicial-I) passed on 7 March 2018. No reply has been tendered by the Respondents.

4. We have perused the record. The Addl. Govt. Pleader still seeks some time for taking instructions.

5. Having considered the matter, we find that the Petition can be disposed of by issuing the following directions :-

(a) The Collector, Pune is directed to call for the concerned record in respect of the construction carried out by Respondent No.5 – Trust at Village Lohgaon, Taluka Pune, District – Pune and the enquiry report, if any, submitted by the Tahsildar, Haveli. In case the Collector, Pune finds that the construction was carried out in contravention of the mandatory provisions of law, then appropriate steps be taken after providing reasonable opportunity of hearing to all concerned, including the Respondent No.5 – Trust.

(b) It is clarified that we have not expressed any conclusive opinion on the submissions made by the Petitioner. The Collector or other officers will take an appropriate view of the matter after a thorough enquiry. The process be completed in accordance with law as expeditiously as possible, preferably within period of six months from today.

(c) Registry to forward the copy of this order by fastest mode of communication to the Collector of Pune.

N.M. JAMDAR, J.

CHIEF JUSTICE