

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION Ld. NO. 276 OF 2019

Ajay H. Vishwakarma.

..Petitioner.

Versus

The Commissioner, The Bombay
Municipal Corporation & Another.

..Respondents.

Mr. M. A.Chaudhari for the Petitioner.

Mrs. K. H. Mastakar for MCGM.

Coram : RANJIT MORE &
SMT. BHARATI H. DANGRE, JJ.

Date : **February 22, 2019.**

P. C. :

1. Heard Mr. Chaudhari, learned counsel for the Petitioner and Mrs. Mastakar, learned counsel for the Respondent-Corporation. The Petitioner is challenging the demolition of his structure by the Respondent-Corporation, carried out in pursuance of the notice dated 15th October 2012 issued under section 312(1) and 314(d) of The Mumbai Municipal Corporation Act, 1888. The Petitioner challenged this notice by filing a suit in the City Civil Court, Mumbai, being Long Cause Suit No.4548 of 2012. The Petitioner had also filed notice of motion before the City Civil Court, being Notice of Motion No. 2974 of 2012, for interim protection. Though initially some protection was granted to the Petitioner, the same was vacated by the subsequent order dated 4th January 2019 passed by the City Civil Court itself. The

Petitioner challenged this order by filing an Appeal from Order before this Court. It is the grievance of the Petitioner that before obtaining any orders from this Court in the said Appeal, the Respondent-Corporation has demolished his structure. The Petitioner contends that action of the Respondent-Corporation is arbitrary and therefore seeking declaration that demolition is illegal.

2. The Petitioner's submissions cannot be accepted when admittedly there was no protection in favour of the Petitioner by any Court of law, and especially when it is the case of the Respondent-Corporation that said structure was on public road and while demolishing the same, procedure established by law has been followed. Accordingly, we decline to entertain this writ petition in exercise of our writ jurisdiction under Article 226 of the Constitution of India and the same is **dismissed**. Since the Petitioner's suit is pending before the City Civil Court, all the contentions of the respective parties are kept open.

[SMT. BHARATI H. DANGRE, J.]

[RANJIT MORE, J.]