

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

**NOTICE OF MOTION NO.429 OF 2019
IN
WRIT PETITION NO.489 OF 2019
WITH
WRIT PETITION NO.489 OF 2019**

Sadashiv Narayan Shetty	...Petitioner
Versus	
The State of Maharashtra and Anr.	...Respondents
.....	

Mr. Sunil Lalla with Ms Namita Shirke and Ms Preeti Mahanta for the Petitioner.
Mr. Himanshu Takke, AGP for the Respondents-State.

**CORAM : A.A. SAYED AND
SMT. ANUJA PRABHUDESSAI, JJ.**

DATED: 6th DECEMBER, 2019.

P.C.:-

1 The Writ Petition has been filed seeking following reliefs:

“(a) Writ of Mandamus or writ in the nature of Mandamus or any other appropriate writ or direction, thereby directing the Respondent to act upon the notice dated 17/3/2015 about regularizing the said structures upon the said property by giving a hearing to the Petitioner for regularizing the structures of the Petitioner in pursuance of Reply dated 23/3/2015 to the Notice dated 17/3/2015.

(b) The Hon’ble Court may be pleased to quash and set aside the notice dated 9/3/2016 issued by the Respondent to Petitioner.

(c) The Respondents be directed to restore the Status Quo Ante in respect of the said structures on the said property prior to the damage caused by the Respondent to the same on 17/3/2016 in pursuance of the notice dated 9/3/2016 issued by the Respondent to Petitioner.”

2 On 5th May, 2016 the following order was passed in the Writ Petition:

- “1. The grievance of the Petitioner is that despite producing all the relevant documents, showing that the Petitioner's structure is not unauthorized, an order has been passed by the Respondents, directing demolition of the said structure, if it is not removed by the Petitioner within 72 hours.
2. Prima facie it does appear that the documents show that all the necessary permissions were obtained by the Petitioner. The Respondents may file their reply.
3. In the meantime, the Respondents are restrained from demolishing the said structure. We are informed that, however, in the meantime, the structure has been demolished. The Respondents, however, shall not take the possession of the property. Liberty is granted to the Petitioners to apply for reconstruction of the said structure. Stand over to 9.6.2016.”

3. Learned Counsel for the Applicant/Petitioner states that pursuant to the liberty granted by aforesaid order dated 5 May

2016, the present Notice of Motion is taken out. The prayer clause (b) of the Notice of Motion reads as under:

“(b) Pending the hearing and disposal of the Petition; the Hon’ble Court may be pleased to grant permission to the Applicant/Petitioner reconstruct the structures on the said property so as to restore the status quo ante in respect of the said structures on the said property prior to the damage caused by the Respondent to the same on 17/03/2016 in pursuance of the notice dated 09/03/2016 issued by the Respondent to Applicant/Petitioner.”

4. Since it is an admitted position that the structures in question have already been demolished, we dispose of the Petition and the Notice of Motion by consent of the learned Counsel for the Applicant/Petitioner by passing the following order:

O R D E R

i) Notwithstanding the representation made by the Petitioner on 20 May 2016 (Exhibit ‘B’ to the Notice of Motion), we permit the Petitioner to make a fresh representation annexing the relevant documents to the Respondent-Collector.

ii) If such Representation is made within a period of three weeks from today, the Respondent-Collector shall decide the said representation expeditiously.

5 The Writ Petition and Notice of Motion to stand disposed of.

(ANUJA PRABHUDESSAI, J.)

(A.A. SAYED, J.)

Megha
Parab

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by Megha Parab
Date:
2019.12.07
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