

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION (L) NO. 30834 OF 2019**

Mahesh Chetandas Makhija ... Petitioner

Versus

The Commissioner and others ... Respondents

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Mr. S.S. Sharma for the Petitioner.

Mr. S.M. Kamble for Respondent Nos.1 and 2.

Ms. Meghna Gowalani for Respondent No.3.

Mr. Arif Ali for Respondent No.5.

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CORAM : S.J. KATHAWALLA AND**R.I. CHAGLA, JJ.****DATED : MARCH 4, 2020.****P.C. :-**

1. The above Writ Petition is filed by the Petitioner for the following reliefs :-

"(a) That this Honourable Court be pleased to issue writ of mandamus or any other writ in the nature of Mandamus or any other writ, order and direction, thereby calling upon the Respondent Nos.1 to 2 to initiate enquiry and thereafter initiate necessary and appropriate legal actions on immediate basis against the said illegal construction work at Room No.5, Barrack No.743, Ulhasnagar - 421 002.

(b) That this Hon'ble Court be pleased to issue writ of mandamus or any other writ in the nature of Mandamus or any other writ in the nature of mandamus or any other writ, order and direction, calling upon the Respondent Nos.1 and 2 to bring all relevant records, papers, permissions, sanction and after scrutiny thereof necessary orders and directions be issued against the Respondent Nos.3 to 5.

(c) That this Hon'ble Court be pleased to issue writ of mandamus or any other writ in the nature of Mandamus or any other writ in the nature of mandamus or any other writ, order and direction, thereby directing the Respondent Nos.1 and 2 to take steps to initiate appropriate action against the officers who are not diligently performing their duties and are misusing their office in collusion with Respondent Nos.3 to 5 and encouraging unauthorized construction in the town also."

2. The Advocate appearing for Respondent No.5 has pointed out that Respondent No.5 has filed a suit before the Civil Judge, J.D., Ulhasnagar being R.C.S. No.129 of 2019 against the Municipal Corporation seeking protective reliefs qua the notice issued by the Corporation pertaining to the structure which is also the subject matter of the above Writ Petition. The Advocate appearing for the Petitioner states that though the statement made on behalf of Respondent No.5 is correct, the Petitioner is not a party in R.C. Suit No.129 of 2019. In view thereof, the Advocates for Respondent Nos.1, 2, 3 and 5 state that they have no objection if the Petitioner applies to the Court of Civil Judge, J.D., Ulhasnagar in R.C.S. No.129 of 2019 for being joined him as party Defendant and a hearing is given to the Petitioner before orders are passed in the matter. The Petitioner shall therefore move an application before the Court of Civil Judge, J.D., Ulhasnagar for being joined as party Defendant in R.C.S. No.129 of 2019. Upon such application being made, the same shall be allowed by consent, and ad-interim / interim / final orders shall be passed in the said Suit, after hearing the Petitioner. The above Petition is accordingly disposed off.

(R.I. CHAGLA, J.)

(S.J. KATHAWALLA, J.)