

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

WRIT PETITION NO.468 OF 2019

Induben Anil Ashar	...	Petitioner
versus		
The Municipal Corporation of Greater Mumbai and Ors.	...	Respondents

Mr. Karl Tamboly with Mr. Neel Kothari i/by Jayakar and Partners, for Petitioner.
Mrs. Shilpa Gajre Dhumale with Mrs. Vandana Mahadik, Mrs. Sheetal Metkari, for
MCGM.
Mr. L.T.Satelkar, AGP, for Respondent-State.

**CORAM: S.J. KATHAWALLA &
R.I.CHAGLA, JJ.**

DATE: 2nd MARCH, 2020

P.C.:

1. The Petitioner has in the present writ petition impugned the notice dated 19th July, 2018 issued by the Corporation (Exhibit H to the Petition) to the owner/occupier/secretary/chairman of Morparia Cottage, Plot bearing No.152/A, CTS No.553, 553/1 and 2 at S.V.Road, Behind Kalpachandra Building, Andheri (W), Mumbai - 400 058. By the said notice, the Corporation has recorded that unauthorized construction is carried out on the ground floor on compulsory open space (adm. 5.86 mtr. X 2.83 mtr. X 3.30 mtr) by means of M.S.section, B.M. walls and ladi coba slab roofing at the above address. The Corporation has called upon the addressee to produce the permission if in possession of the addressee approved by the

competent authority for erection of the building or execution of the work set out in the said notice within 24 hours from the service of the notice. It is the case of the Petitioner that the notice was served at 4.30 p.m. on 19th July, 2018 and the structure was demolished at 1.30 p.m. on 20th July, 2018 i.e. without waiting for 24 hours.

2. It is the case of the Petitioner that the structure which is demolished was authorized, whereas the Corporation denies and disputes the same. In view thereof, no order directing the Petitioner to reconstruct the structure is passed. However, the Petitioner is allowed to submit a written representation to the Corporation along with all the necessary documents within a period of one week from today. The Corporation shall upon receipt of the said representation, give personal hearing to the Petitioner and decide the same on merits within a period of two weeks thereafter. If the Corporation is convinced by the representation made by the Petitioner, the Corporation may allow them to reconstruct the structure. However, if the order is passed which is adverse to the Petitioner, the Petitioner shall be at liberty to impugn the said order.

3. The Writ Petition is accordingly disposed of.

(R.I.CHAGLA, J.)

(S.J.KATHAWALLA, J.)