

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION NO.3771 OF 2019**

**ABDUL RASHEEDKHAN ABDUL HAMEEDKHAN  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS**

...  
Advocate for the Petitioner : Shri Golegaonkar Madhur A.  
AGP for Respondent 1 : Shri S.K. Tambe  
Advocate for Respondents 2 and 3 : Shri A.P. Bhandari

...

**CORAM : RAVINDRA V. GHUGE  
&  
S.G. MEHARE, JJ.**

**DATE :- 20<sup>th</sup> July, 2021**

**Per Court :-**

1. On 15.07.2021, this matter was heard for quite some time. As the hearing in the matter progressed, the learned advocate for the petitioner sought an adjournment so as to take instructions from the petitioner.

2. Today, a copy of the undertaking dated 19.07.2021, which is duly signed and affirmed by the petitioner, is placed before us (six pages). We have marked the said undertaking as “X” for identification.

3. The learned advocate for the petitioner submits, on instructions, that as is undertaken in paragraph 4 of the undertaking “X”, the petitioner has already commenced the marking of the portion, which is affected by 60 meters DP road and that portion,

which is also marked by the Aurangabad Municipal Corporation, would be removed by the petitioner himself on or before 19.09.2021. He further submits, on instructions, that the petitioner would remove the said portion without any murmur and subsequently, if the petitioner desires to assail any action of the Municipal Corporation and desires to put forth a demand for compensation, he may move the appropriate Civil Court under the Code of Civil Procedure.

4. The learned advocate for the Aurangabad Municipal Corporation submits, on instructions, that in the event the Corporation desires to acquire any land beyond the 60 meters DP road, it would follow the due procedure as is laid down in law.

5. We deem it apposite to reproduce paragraph 4 of the undertaking "X" hereunder:-

*"4. I humbly say and submit that by filing this undertaking, before this Honourable Court, I undertake to remove part of building i.e. been affected by 60 Mtrs DP Road and portion which is marked by Aurangabad Municipal Corporation at present. I will remove the said portion of construction at my own within a period of two months from the date of order passed by this Honourable Court, by keeping open the challenges/ grievances raised in the present Writ Petition i.e. about authority of the Aurangabad Municipal Corporation to issue notices which are under challenge in Writ Petition as well as about the acquisition proceedings as per the provisions of Maharashtra Regional Town Planning Act, as remedy is there."*

6. In view of the above, this Writ Petition is disposed off in terms of the reproduced paragraph 4 above.

7. After removal of the portion marked by the Aurangabad

Municipal Corporation to the extent of the 60 meters DP Road, if the petitioner desires to raise any grievance, he would be at liberty to do so. Needless to state, all contentions of the litigating parties in this matter are kept open since we have not expressed any view about the same.

8. It goes without saying that if the petitioner fails to remove the structure as marked by the Aurangabad Municipal Corporation, on or before 19.09.2021, the petitioner agrees not to oppose the steps to be taken by the Aurangabad Municipal Corporation to remove the said structure upto the 60 meters DP road and he would bear the costs and expenses which the Corporation would incur in doing so.

9. The pending Civil Application, if any, stands disposed off.

*kps*

(S.G. MEHARE, J.)

(RAVINDRA V. GHUGE, J.)