

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

958 WRIT PETITION NO.10412 OF 2021

KALYANRAO @ KALLYANI VISHWANATH SOLAPURE SINCE
DECEASED THROUGH HIS LEGAL HEIRS AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND
OTHERS

...

Advocate for Petitioners:
Mr. Shinde Chandrakant K.
AGP for Respondent/State: Mr. S. P. Tiwari

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**CORAM: S. V. GANGAPURWALA &
R. N. LADDHA, JJ.**

DATE: 21st SEPTEMBER, 2021

PER COURT:

1. Mr. Shinde, learned Advocate for the petitioners submits that without following proper procedure as prescribed U/Sec. 81-B of the Maharashtra Municipal Corporations Act, 1949 (*hereinafter referred to as 'Act-1949'*) the impugned order is passed. Show Cause Notice is also not issued to the petitioners. The property in question is not a property of the Corporation. The Corporation is not the owner of the premises. The Corporation does not have authority to issue the notice.

2. The order, it appears, is passed U/Sec. 81-B of the Act-1949. Against the said order, the petitioners are provided with a remedy U/Sec. 81-F of the Act-1949. It is an order that is appellable. The petitioners are entitled to avail the said remedy. In that event, the petitioners can raise all these grounds about non adherence to the procedure as prescribed U/Sec. 81-B of the Act-1949 and all other aspects of the matter.

3. Writ Petition is disposed of with liberty to the petitioner to avail the alternate remedy. All contentions are kept open. No costs.

[R. N. LADDHA, J.]

[S. V. GANGAPURWALA, J.]

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