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

921 WRIT PETITION NO.1497 OF 2021

**NILIMA SUDHAKAR JOSHI
VERSUS
THE STATE OF MAHARASHTRA THR ITS PRINCIPAL
SECRETARY AND OTHERS**

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Mr R. A. Joshi, Advocate for petitioner;
Mr P. K. Lakhotiya, A.G.P. for respondent No.1
Mr V. P. Latange, Advocate for respondent No.2 to 4
Mr A. S. Bayas, Advocate for respondent No.5

**CORAM : RAVINDRA V. GHUGE
AND
S. G. DIGE, JJ.**

DATE : 13th April, 2022

PER COURT:

1. The petitioner has put forth prayer clauses (A) and (B) as under :-

A) By issue of Writ of Mandamus or any other Writ, order or directions of like nature, the Respondent No. 1 to 4 be directed to look into the contents of complaint filed by petitioner on 6th of October, 2020 and take action against the Respondent No.5 for not providing marginal space towards the western side of the common compound wall of the petitioner.

B) Pending hearing and final disposal of the petition

(2)

the Respondent No.5 may kindly be restrained from making any construction towards the western side of the common compound wall of the petitioner.”

2. The contention of the petitioner is that, his complaint dated 06/10/2020 can be considered under Section 260 of the Maharashtra Municipal Corporation Act, 1949. Respondent Nos.3 and 4 are not dealing with the complaint.

3. The learned Advocate for respondent Nos.2 and 4 submits that the complaint could be considered on its own merits within eight weeks.

4. The learned Advocate representing respondent No.5 submits that respondent No.5 was abroad for more than 20 years. The petitioner obtained an occupancy certificate and thereafter, taking advantage of the absence of respondent No.5, who is an owner of the adjacent plot, has encroached upon his plot which originally is 4000 sq.ft.

5. In view of the above, this petition is disposed off.

6. We expect respondent Nos.3 and 4 to deal with the complaint of the petitioner, dated 06/10/2020, within 8 weeks,

(3)

after hearing the complainant as well as respondent No.5, as is permissible in law and exercise powers provided under Section 260 of the Maharashtra Municipal Corporation Act.

(S. G. DIGE, J.)

(RAVINDRA V. GHUGE, J.)

sjk