

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

35 WRIT PETITION NO.4999 OF 2022

**SUSHIL JAVERILAL OSTAWAL AND ANOTHER
VERSUS
MUNICIPAL COUNCIL SILLOD THROUGH ITS CHIEF OFFICER AND
ANOTHER**

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Advocate for Petitioners : Mr.Nandedkar Devanand Y.

Advocate for Respondent No. 1 : Mr. M.V.Deo h/f Mr.Hiwrekar S.D.

Advocate for Respondent No. 2 : Mr. Amit Vaidya h/f Mr. D.P Sakhare

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CORAM : SANDEEP V. MARNE, J.

DATE : 10.10.2022.

PER COURT :

1. At the outset, I find that the present petition is completely misconceived. Petitioner has filed a suit challenging notice dated 12.01.2016 issued by the respondent Municipal Council under the provisions of Section 53 (1) of the Maharashtra Regional Town Planning Act, (for short 'M.R.T.P.') Act, 1966. The plaintiffs had filed application at Exh. 66 seeking production of documents and in pursuance of order passed by the Trial Court thereon the respondent Municipal Council has placed on record layout map of Survey No. 5 Sillod, It appears that the plaintiff has also placed on record a photo copy of another map/plan which is apparently not legible. The plaintiff desired that his document to be admitted or denied by the witnesses of the Municipal Council. He also sought admission or

denial of some more documents. The witnesses expressed inability to admit or deny some of the documents which had led to filing of the application by the plaintiffs below Exh.186 which has been rejected by the Civil Judge, Junior Division, Aurangabad by order dated 23.02.2022.

2. The plaintiff has erected unauthorized construction and a notice under Section 53 (1) of M.R.T.P. Act was issued to him. The burden of proving that the construction is authorized as per the development permission rests, squarely on the shoulders of the plaintiff. Therefore, the petitioner's demand for admission/denial of documents produced by him in the Court at the stage of cross-examination of the witnesses of the municipal council was totally untenable. The Court below has rightly rejected the petitioner's application.

3. The petition is therefore devoid of merits and the same is dismissed without any orders as to the costs.

(SANDEEP V. MARNE)
JUDGE

mahajansb/