

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

2 WRIT PETITION NO.6502 OF 2020

ABDUL WAHAB ABDUL GANI
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Petitioner : Mr. Gore Ravindra Vitthal.
AGP for Respondents-State : Mr. K. N. Lokhande.
Advocate for Respondent No.3 : Mr. Bhandari Anand P
Advocate for Respondent No.5 : Mr. Patel Sk. Ashpak Taher.

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**CORAM : R. D. DHANUKA, AND
S. G. MEHARE, JJ.**

DATE : 04.04.2022

PER COURT :-

1. By this petition filed under Article 226 of the Constitution of India, the petitioner has impugned the communication dated 08.08.2020 issued by respondent No.4 and also seeks writ of Mandamus against respondent Nos.3 and 4 for directing to pay compensation of Rs.32,40,000/- with interest and to construct Godown in the writ property.

2. This matter appeared before this Court on 31.08.2020, when this Court recorded the contention of the petitioner that the Godown is illegally demolished and that the petitioner is

claiming possession. The said order was thereafter clarified by order dated 07.09.2020 on the praecipe filed by the petitioner that the word “possession” in paragraph No.1 in the order dated 31.08.2020 shall be substituted with the word “compensation”.

3. Learned counsel for the petitioner vehemently urged that the Municipal Corporation could not have demolished the said impugned structure and thus the petitioner is entitled to claim compensation. He submits that the petitioner is still carrying on business from the open plot on which the impugned structure of the petitioner was standing and was illegally demolished by the Municipal Corporation.

4. Mr. Bhandari, learned counsel for the Municipal Corporation on the other hand invited our attention to the letter dated 08.08.2020 addressed by his client to the petitioner calling upon the petitioner to produce various documents in support of his alleged rights in the property in question including the payment of rent amount, if any. The petitioner has not produced any such documents before the Municipal Corporation in response to the said notice dated

08.08.2020 till date.

5. Learned counsel for the Municipal Corporation also invited our attention to Section 81H and would submit that there is no bar in so far as suit if filed by the petitioner for recovery of compensation under the said provision.

6. In our view, since the petitioner has accepted the position before this Court on 31.08.2020 and 07.09.2020 that he is only claiming compensation and not possession, the petitioner cannot continue to be in alleged possession of the plot of the land on which the structure came to be demolished by the Municipal Corporation.

7. Insofar as claim for compensation is concerned, the petitioner would be at liberty to file an appropriate proceedings. It is, however, made clear that if the petitioner proposes to appear before the Municipal Corporation in response to the letter dated 08.08.2020 and to produce the relevant documents as requisition by the Corporation, the petitioner would be at liberty to produce such documents within a period of two (2) weeks from today. If any such documents are produced, Municipal Corporation to consider

such documents and to pass an appropriate order within a period of four (4) weeks from the date of the petitioner producing the documents after rendering a personal hearing to the petitioner.

8 Writ Petition is disposed off accordingly in the above terms. No order as to costs.

(S. G. MEHARE, J.)

(R. D. DHANUKA, J.)

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vmk/-