

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8256 OF 2022

SAYYAD HAMID LATIF
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
PRINCIPAL SECRETARY AND OTHERS

...
Advocate for the Petitioner : Shri Shaikh Mazhar A. Jahagirdar
AGP for the Respondents/State : Shri A.R. Kale
...

CORAM : RAVINDRA V. GHUGE
&
ARUN R. PEDNEKER, JJ.

DATE :- 11th August, 2022

Per Court :-

1. The petitioner has put forth prayer clause B as under:-

“B) *To direct the respondent statutory authorities to initiate the proceeding under the provisions of Chapter XV of the Maharashtra Municipal Corporation Act, 1949 against the illegal construction as represented by Exhibit B of the writ petition, by issuing writ of mandamus or any other writ of like nature;*”

2. After hearing the learned advocate for the petitioner, we notice the following disputed factors :-

(a) The petitioner’s claim that somebody (not arrayed as

a respondent) is resorting to illegal construction on the property of the petitioner.

(b) The same property of the petitioner is subject matter of a title dispute before the Honourable Supreme Court in Petition for Special Leave to Appeal (Civil) No.3136/2016 wherein, the final judgment of the Bombay High Court dated 21.09.2015 in Civil Revision Application No.4/2019 is assailed. The petitioner is concluded to be not the title holder of the said property and is held to be Inamdar.

(c) The Honourable Supreme Court has passed an order on 05.02.2016 directing status-quo with regard to the possession and title of the said property.

(d) According to the petitioner, the case has not progressed before the Honourable Supreme Court in the past five years.

(e) The petitioner seeks a direction that the statutory authority should initiate proceedings against an illegal construction erected by one Altaf Hamid Kureshi.

(f) The said Altaf Hamid Kureshi has not been arrayed as a respondent and this petition, therefore, suffers for non-joinder of parties.

3. In view of the above, this Writ Petition is dismissed.

kps (ARUN R. PEDNEKER, J.) (RAVINDRA V. GHUGE, J.)