

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

Writ Petition No. 9720 of 2022

Mr. Mohd. Mohsin Mohd. Yaseen ... Petitioner
v/s.
The State of Maharashtra & Ors. ... Respondents

Ms. Prachi Khandage a/w.Ms. Sachin B. Chandan, advocate for the
Petitioner.

Mr. A.A.Alaspurkar, AGP for State.

Mr. Santosh Parad for MCGM.

**CORAM : R.D. DHANUKA &
KAMAL KHATA, JJ.**

18th August 2022

LATA
SUNIL
PANJWANI
Digitally
signed by
LATA
SUNIL
PANJWANI
Date:
2022.08.20
11:48:31
+0530

P.C.

Rule. Rule made returnable forthwith. Heard finally by consent
of the parties.

2. By this Petition under Article 226 of the Constitution of India,
the Petitioner is praying for quashing and setting aside the order dated
28th June 2022 passed by the Respondent No.2 directing to demolish
the alleged unauthorised construction carried out by the Petitioner.

3. It is common ground that Petitioner was issued a show-cause notice on 27th June 2022 and that the impugned order is passed on 28th June 2022, even without giving a proper opportunity to the Petitioner to produce documents and without giving an opportunity of being heard.

4. In our view the impugned order is in gross violation of principles of natural justice. Accordingly, we quash and set aside the impugned order. The show-cause notice issued at Exhibit A dated 27th June 2022 is restored to file whereas Petitioner agrees to produce the documents in compliance with said notice within one week from today.

5. The Petitioner is directed to remain present before the Respondent No.3 for personal hearing on 7th September 2022 at 11.00 a.m. without fail. The Respondent No.3 shall pass a fresh order after considering the documents that would be produced by the Petitioner and after granting personal hearing to the Petitioner without being influenced by the observations in the order dt. 28/06/2022. The order passed by the Respondent No.3 shall be communicated to the Petitioner within one week from the date of passing order.

6. Respondent No.3 shall not take any coercive steps against the offending structure till fresh order is passed and for a period of two

weeks from the date of communication of order, if the same is adverse to the Petitioner.

7. If the adverse order is passed against the Petitioner, the Petitioner would be at liberty to file appropriate proceedings as permissible in law. During this period the Petitioner shall not carry out any construction, alteration of any nature whatsoever without obtaining prior sanction from the Municipal Corporation.

8. Writ Petition stands disposed of. Rule is made absolute in the above terms. No order as to costs.

9. Parties to act on an authenticated copy of the order.

(KAMAL KHATA, J)

(R.D. DHANUKA, J)