

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

WRIT PETITION NO.3709 OF 2021

Raju Bhagwat Jhankar

.. Petitioner

v/s.

The State of Maharashtra & Ors.

.. Respondents

Mr. Sanjeev Kumar Bapu Deore, for the petitioner.

Mr. Yuwraj D. Patil, AGP – State, for the respondent No.1.

Mr. Vijay D. Patil, for respondent No.2 – Corporation.

Ms. Meenal Chandnani, for respondent Nos.4 to 8.

CORAM : R.D. DHANUKA &

KAMAL KHATA, JJ.

DATED : 7TH SEPTEMBER, 2022.

P.C. :

1. We have heard learned counsel for the parties and also perused the affidavit in reply filed by respondent No.2 on 10th December 2020. The petitioner seeks removal of the alleged encroachment carried out on the alleged public road near barrack No.2085 after following due process of law and submission of a status report before this Court. Learned counsel for the petitioner on

SUMEDH
NAMDEO
SONAWANE

Digitally signed by
SUMEDH NAMDEO
SONAWANE
Date: 2022.09.13
10:59:19 +0530

instructions pressed for prayer clause 'b'. The learned counsel appearing for the petitioner states that his clients have already removed the unauthorized construction carried out by him. Statement is accepted.

2. Insofar prayer clause 'a' is concerned, the said prayer can be disposed off with the following directions. The petitioner and the respondent Nos.4 to 8 are directed to remain present before the Assistant Commissioner, Ulhasnagar Mahanagarpalika through their authorized representative on 21st September 2022 at 11:00 a.m. The Assistant Commissioner of the Municipal Corporation shall grant personal hearing to the petitioner and respondent Nos.4 to 8. Both parties would be at liberty to produce relevant documents in support of their rival claims.
3. Assistant Commissioner of Ulhasnagar Mahanagarpalika is directed to pass an appropriate order in accordance with law within eight weeks from the date of personal hearing and shall communicate the order to the petitioners as well as respondent Nos.4 to 8 within one week from the date of passing order. If the Municipal Corporation is satisfied that any of the parties have carried out any unauthorized construction or has blocked the passage, appropriate action shall be initiated against the

wrongdoers in accordance with law.

4. Any party/s aggrieved by any such action proposed by the Municipal Corporation, would be at liberty to file appropriate proceedings permissible in law. It is made clear that this Court has not expressed any views on the merits and the rival contentions raised by the petitioner as well as respondent Nos.4 to 8. All contentions on merits are kept open.
5. Writ petition is disposed off in aforesaid terms. No order as to costs.

(KAMAL KHATA, J.)

(R.D.DHANUKA, J.)