

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**R/SPECIAL CIVIL APPLICATION NO. 1206 of 2022**

KAMLESHBHAI BHUPATRAI TANK

Versus

KHAMBHALIA NAGAR PALIKA THRU CHIEF OFFICER & 4 other(s)

Appearance:

THAKKAR AND PAHWA ADVOCATES(1357) for the Petitioner(s) No. 1

MR HARSHIL C DATTANI(6241) for the Respondent(s) No. 5

MR RC KAKKAD(389) for the Respondent(s) No. 1

NOTICE SERVED BY DS for the Respondent(s) No. 2,3,4

CORAM: HONOURABLE MR. JUSTICE A.Y. KOGJE**Date : 07/03/2022****ORAL ORDER**

[1] This petition is filed by the petitioner under Article 226 of the Constitution of India for following reliefs:-

“(A) YOUR LORDSHIPS may be pleased to issue a writ of mandamus or any other appropriate writ, order or direction, directing the respondents to forthwith remove the illegal and unauthorized construction being put up by respondent no.5 by encroaching upon public space/land (ravali land), in the interest of justice;

(B) YOUR LORDSHIPS may be pleased to direct the respondent nos.1 to 4 to take immediate steps to remove illegal and unauthorized construction being put up by respondent no.5 by encroaching upon public space/land (ravali land), pending admission, hearing and final disposal of present petition;

(C) YOUR LORDSHIPS may be pleased to direct the respondents to forthwith decide the representation dated 30.12.2021 (Annexure-A) made by the petitioner and place the decision taken on the representation before this Hon’ble Court, pending the admission, hearing and final disposal of this petition.”

[2] Considering the subject matter, this Court has observed in its dated 27.01.2022 with regards to the unauthorized construction allegedly undertaken by the respondent No.5. Today, as per the directions, the respondent authority has filed its affidavit, wherein, the necessary action under the provisions of law is contemplated and learned advocate representing private respondent No.5 places on record affidavit of the respondent No.5, wherein it is stated that the unauthorized/objectionable construction which was objected to by the petitioner has been removed/demolished. It is stated that the activity of demolition was carried out in presence of the petitioner himself. Learned advocate also states that the Opla on the front of the house which also falls on the public street will also be removed.

[3] Even when the matter was called out for the second time, learned advocate appearing for the petitioner has not appeared. Therefore, considering the subsequent development particularly the affidavit of respondent No.5 with regards to the unauthorized construction and removal of the same to the satisfaction of the petitioner, it appears that the grievance of the petitioner is resolved. The respondent No.5 will abide by the affidavit especially not to carry out any illegal or unauthorized construction.

[4] With the aforesaid, the present petition stands ***disposed of.*** As the petition is disposed of on the affidavit filed by the respondent No.5, the Court has not entered into the merits of the case.

SIDDHARTH

(A.Y. KOGJE, J)