

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

WRIT PETITION NO. 1446 OF 2015

JAFAR KAHN S/O GAFUR KHAN AND ORS.

VERSUS

THE STATE OF MAHARASHTRA AND ORS.

..

Mr.VP Latange, Adv. For petitioners;

Mr. SK Kadam, AGP for State;

Mr. MS Deshmukh, Adv. For Resp.No.2.

**CORAM : R.M.BORDE &
P.R.BORA,JJ.**

DATE : 5th February,2015.

PER COURT :

1) It is not a matter of dispute that the petitioners have presented a suit claiming declaration and injunction in respect of the property and the suit is pending. It is also informed that an application seeking interim order/relief is tendered in the pending suit and the date is also prescribed for hearing in the application. In the meanwhile, it is contended that the the Municipal Corporation, by adopting high-handed attitude demolished some part of the property. Since it is informed that part of the property has already been demolished and the suit is pending before the civil court, it is open for the petitioners to approach the civil court and seek appropriate orders.

2) Since alternate remedy already is availed by the petitioners, no interference is called for.

3) Keeping the option of the petitioner to prosecute the pending suit, open, the writ petition stands disposed of.

4) If the petitioners make a request to the concerned Civil Judge to take up the matter on priority basis, the Civil Court may consider the same and take up the matter considering the urgency of the matter.

5) Authenticated copy of this order be provided to the counsel for petitioners.

(P.R.BORA)
JUDGE

(R.M.BORDE)
JUDGE

bdv/