

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

WRIT PETITION NO. 1659 OF 2013

Alex Paulo Cos. & ors.

... Petitioners

v/s

Vasai Virar Municipal Corpn. & ors.

... Respondents

Mr.Kapil P. Shetye for the petitioners.

Mr.Atul G. Damle, senior advocate for the Resp. Nos.1 and 2.

Mr.Mahesh Rawool i/by Kayval P. Shah for the Resp. Nos.3 and 4.

***CORAM: SMT. VASANTI A. NAIK &
SHRI C. V. BHADANG, JJ.***

DATED : 4TH MARCH, 2015

P.C.:

Heard.

By this writ petition, the petitioners seek a direction to the respondent Corporation to demolish the bungalows illegally constructed by the respondent Nos.3 and 4 on the plot of the petitioners.

On hearing the learned counsel for the parties, it appears that the prayer made by the petitioners cannot be granted. The petitioners have instituted a suit against the respondent Nos.3 and

4, restraining them from making illegal construction on the plot in question. It is the case of the petitioners that, though the Trial Court had granted an injunction in favour of the petitioners, the respondent Nos.3 and 4 carried on the illegal construction. If the order of the Trial Court has been violated by the respondent Nos.3 and 4, the petitioners can take appropriate action against the respondent Nos.3 and 4 under the provisions of the Code of Civil Procedure. Moreover, we find that both the parties i.e. the petitioners on one hand and the respondent Nos.3 and 4 on the other, are claiming title to the said property. It is the case of the petitioners that, the petitioners are the owners of the same, whereas, it is the case of the respondent Nos.3 and 4 that, they are the owners of the same. Both the parties have relied on certain documents to substantiate their title. It would not be possible in the facts of this case to direct the respondent Corporation to demolish the structure constructed by the respondent Nos.3 and 4, in exercise of the jurisdiction under Article 226 of the Constitution of India, especially when the title to the said property is in dispute and admittedly the matter between the petitioners and the respondent Nos.3 and 4 is pending before the Civil Court.

For the reasons aforesaid, we dismiss the writ petition with no order as to costs.

(C. V. BHADANG, J.)

(VASANTI A. NAIK, J.)