

Sequeira

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

WRIT PETITION NO. 1497 OF 2015.

Khalil Ahmed Badruddoja.

.. Petitioner

Vs.

Malegaon Municipal Corporation & anr.

.. Respondents

Mr.N.R.Bubna, for petitioner.

Mr.C.P.Yadav, Assistant Government Pleader, for the respondent No.2.

***CORAM: Smt. Vasanti A. Naik &
Shri C.V.Bhadang JJ.
Friday 20 February, 2015***

PC.:

By this petition the petitioner seeks a direction to the respondent No.1 to forthwith remove the encroachment on the road passing through Gat No.221 and 224 at Ramzanpura Dayane, Malegaon.

According to the petitioner some encroachments have been made on the road passing through Gat no.221 and 224 and the Corporation is not taking any action for the removal thereof. It is stated that the Corporation has a bounden duty to remove the illegal construction. It is stated that the encroachment on the road is causing nuisance to the petitioner.

On hearing learned counsel for the petitioner and on perusal of the documents annexed to the petition, it does not appear that there is no dispute that illegal construction / houses are built on the public road. Some measurements and inspections were carried out by the Corporation and the persons concerned, who had built their houses on the disputed site were also present. It does not appear from any of the documents that the persons who have constructed the houses on the site in question have admitted that they have made the construction on the road. In this background, it would be proper for the petitioner to take up appropriate civil proceedings rather than filing Writ petition seeking a direction to the Corporation to remove the illegal construction. Also, the petitioner has not joined the persons who have made the construction as parties.

In the circumstances of the case, we dismiss the Writ petition with no order as to costs.

(C.V.Bhadang J.)

(Vasanti A.Naik J.)