

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO.2566 OF 2015

Mr. Pradeep Kacher Patil. .. Petitioner
Vs
Thane Municipal Corporation and Anr. .. Respondents
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Shri Sagar A. Joshi for the Petitioner.
Shri Ajit R. Pitale for the Respondents.
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CORAM : A.S. OKA & A.PBHANGALE, JJ
DATED : 9TH APRIL 2015

PC.

. The learned counsel appearing for the Petitioner on instruction seeks permission to withdraw this Petition with liberty to file a Civil Suit before the Civil Court. He seeks continuation of the ad-interim relief. The learned counsel appearing for Municipal Corporation submits that the suit will be barred by express provisions of law.

2. In view of the request of the Petitioner, we dismiss the Petition as withdrawn with liberty to file a Civil Suit. We make it clear that this Court has not recorded a finding that the Civil Suit which may be filed for challenging the order dated 20th February 2015 is maintainable. It will be open for the Municipal Corporation to raise a contention regarding the bar of the suit.

3. To enable the Petitioner to take appropriate steps, the ad-interim relief granted on 26th March 2015 will continue to operate for a period of four weeks from today subject to condition that even the Petitioner shall maintain the status quo as of today in respect of the structure in question.

4. We make it clear that if the Civil Suit is not entertained on the ground of statutory bar, the remedy of filing of a fresh Petition under Article 226 of the Constitution of India on same cause of action will not remain open to the Petitioner.

(A.PBHANGALE, J)

(A.S. OKA, J)