

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

rpa

WRIT PETITION NO.5727 OF 2012

Smt.Cicilia Alex Menzis & Ors.	.. Petitioners
Vs.	
The State of Maharashtra & Ors.	.. Respondents

....
Mr.Rajiv Patil, Senior Advocate i/b. Mr.Onkar Virendra Warange,
Advocate for the Petitioners.
Mr.V.S. Gokhale, AGP for the Respondent Nos.1 and 3.
Mr.Atul G. Damle, Senior Advocate a/w. Mr.Sandeep Aole &
Mr.Vishesh Kalra i/b. M/s. Vidhi Partners, Advocate for the
Respondent No.2.

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**CORAM : A.S. OKA &
A.P. BHANGALE, JJ.**

DATED : APRIL 18, 2015.

P.C. :

Heard the learned senior counsel appearing for the petitioners, the learned senior counsel appearing for the 2nd respondent and the learned AGP for the 1st and 3rd respondents. The petition has been filed seeking action of demolition in respect of the alleged illegal construction made by the 4th to 8th respondents.

2 There is an affidavit in reply filed by Smt.Smita Dattatrey Bhoir, Acting Assistant Commissioner of the 2nd respondent Municipal Corporation. We have perused the said

affidavit-in-reply. As far as paragraph no.3 of the reply is concerned, it is not material for the controversy in this petition. In paragraph no.4, he stated that a notice dated 21st March, 2011 issued by the 2nd respondent Municipal Corporation under Sections 52, 53 and 54 of the Maharashtra Regional and Town Planning Act, 1966 in respect of structures on survey no.85K has been challenged in Regular Civil Suit No.188 of 2014 and the Civil Court has granted order of status-quo on 2nd May, 2014.

3 It is obvious that as and when the order of status-quo is vacated, the 2nd respondent is bound to take action on the basis of the notice dated 21st March, 2011.

4 Hence, we dispose of the petition by passing the following order:

:: ORDER ::

(i) If application for temporary injunction in Regular Civil Suit No.188 of 2014 is still pending, we direct the learned Civil Judge Junior Division at Vasai to decide the pending application for temporary injunction as expeditiously as possible and in any event within a period of two months from the date on

which an authenticated copy of this order is produced before the said Court;

(ii) It is obvious that it will be open for the 2nd respondent corporation to raise the issue of the maintainability of the suit. We direct the 2nd respondent to produce an authenticated copy of this order before the learned trial Judge on or before 30th April, 2015;

(iii) The action of demolition on the basis of notice dated 21st March, 2011 shall be taken by the 2nd respondent within a period of one month from the date on which prohibitory order ceases to operate;

(iv) The petition is disposed of on the above terms.

(A.P. BHANGALE, J.)

(A.S. OKA, J.)