

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

WRIT PETITION NO. 4080 OF 2015

Arun S/o Atmaramji Deoghare and another

-vs-

Nagpur Municipal Corporation and others

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders.

Mr. Salim Khan, counsel for the petitioners.

CORAM : SMT. VASANTI A. NAIK &
A. I. S. CHEEMA, JJ.

DATE : 27.08.2015.

By this petition, the petitioner seeks a direction to the respondent Nos.1 to 3 to take action on the notice issued by the respondent Nos.1 to 3 to the respondent Nos.4 and 5 under the provisions of Section 53(1) of the Maharashtra Regional and Town Planning Act, 1966.

The petitioner claims to be the owner of the house adjoining the property owned and possessed by the respondent Nos.4 and 5. According to the petitioner, certain illegal construction has been made by the respondent Nos.4 and 5 resulting in affecting the easementary rights of the petitioner. It is stated that the petitioner cannot open some of the doors and windows of the house of the petitioner in view of the illegal construction made by the respondent Nos.4 and 5. It is stated that though a complaint was made by the petitioner to the authorities under the Maharashtra Regional and Town Planning Act and though a notice was issued to the respondent Nos.4 and 5, there is no progress in the matter. The petitioner has sought a direction to the respondent Nos.1 to 3 to take action in furtherance of the notice.

The relief sought by the petitioner cannot be granted, in exercise of the writ jurisdiction. The petitioner has already approached the Civil Court and has filed the civil suit for permanent injunction and damages against the respondent Nos.4 and 5 and the same is pending. Whether the respondent Nos.4 and 5 have illegally made the construction on their plot is a matter in issue in the said civil suit. Since the issue in regard to the illegal construction is pending in the Civil Court and the parties would be entitled to tender evidence on the said issue, it would not be proper to entertain this writ petition and direct the respondent Nos.1 to 3 to ensure that the structure made by the respondent Nos.4 and 5 is demolished.

In the aforesaid circumstances, we dismiss the writ petition with no order as to costs.

JUDGE

JUDGE

KHUNTE