

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 5051 OF 2015

Jafar Khan Gafur Khan and others .. Petitioners

Versus

The State of Maharashtra and others .. Respondents

Shri S. S. Chapalgaonkar, Advocate for Petitioners.

Shri S. B. Pulkundwar, A.G.P. for the Respondent No. 1.

Shri Satyajit S. bora, Advocate for the Respondent Nos. 2, 5 to 13.

**CORAM : S. V. GANGAPURWALA AND
K. K. SONAWANE, JJ.**

DATE : 27TH JULY, 2016.

PER COURT :

. Mr. Chapalgaonkar, the learned counsel for the petitioner submits that, civil suit is pending between the parties inspite of the fact that, civil suit was pending and the respondent has notice of the pendency of civil suit the respondents and its authorities illegally without observing the due procedure of law demolished the construction of petitioners, which was in existence for more than 40 years. The petitioners have placed on record documents to prima facie establish their title. The learned counsel submits that, even if in respect of other prayers made in the writ petition, the petitioners may have remedy

before the Civil Court, as far as prayer clause E is concerned, the Court may take cognizance of the same.

2. According to Mr. Bora, the learned counsel for Municipal Corporation the due procedure of law was followed. The construction of the petitioners was demolished in an encroachment drive. It is not that only the houses of petitioners were demolished, but in an encroachment drive number of houses were demolished. The petitioners are not owners of the properties in question. As due procedure of law is followed, the petitioners are not entitled for any relief.

3. It is not disputed that the civil suit is already filed by petitioners seeking injunction. In the said civil suit, it is submitted that, substantial reliefs regarding declaration, injunction and damages are already claimed. The petitioners can agitate in respect of said reliefs in the substantive civil suit. As far as relief claimed vide prayer clause E is concerned, at this stage it would be premature to issue directions as sought of making an enquiry against erring officials as contended by petitioners. Depending upon the decision of the civil suit, it will be open for petitioners to make such a prayer afresh. With these observations, writ petition stands disposed of. No costs.

[K. K. SONAWANE, J.]

[S. V. GANGAPURWALA, J.]

bsb/July 16