

mm

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

WRIT PETITION NO. 9012 OF 2016

Mrs. Ponibai Prakashkumar Chaudhary

...Petitioner

Vs.

Smt. Charusheela Pandit & Ors.

...Respondents

Mr. Sandesh D. Patil i/b. M/s. Triyama Legal,
Advocate for the Petitioner

Mr. Mandar Limaye, Advocate for Respondent Nos. 2 & 3

Ms. M.P. Thakur, AGP for the State Respondent No.1

CORAM : SHANTANU S. KEMKAR &

M.S. KARNIK, JJ.

DATED : 5TH AUGUST, 2016

P.C. :

Parties through their Counsel. On instructions it has been stated by the learned Counsel appearing for the Corporation that on the basis of the impugned notice the Corporation does not intend to demolish the structure. In view of the aforesaid and keeping in view the fact that the Petitioner's Civil Suit is pending before the Civil Judge (J.D.), Thane challenging the earlier notice we are inclined to dispose of this Petition by giving liberty to the Petitioner to challenge the impugned notice before the Civil Court by

amending the plaint. The Petitioner's contention that the Corporation is not entitled to issue subsequent notice, can also be raised by the Petitioner by way of amendment in the suit.

2. It is open for the Petitioner to file appropriate application before the Civil Court praying for interim relief against the notice dated 27th July, 2016 which is impugned in this Petition.

3. For a period of 4 weeks from today Petitioner is allowed to occupy the premises at his own risk subject to his filing of undertaking to that effect before this Court within a week from today. Needless to say that the trial Court shall decide the said application for interim relief on its own merits and shall not be influenced by the interim protection given by this Court.

4. The Petition is disposed of accordingly.

(M.S. KARNIK, J.)

(SHANTANU S. KEMKAR, J.)