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

**CIVIL APPLICATION NO.3111 OF 2016
IN
WRIT PETITION NO.13945 OF 2016**

Navid Alam Mohd.Amin

... Applicant

In the matter between

Shri.Atiq Ahmed Haji Mohd
Mohsin and ors.

...Petitioners

Vs.

The Commissioner, Malegaon
Municipal Corporation at Malegaon

...Respondent

....

Mr.Mukesh Vashi i/b M/s M.P.Vashi & Associates for the Applicant.

Mr. R.N.Gite Original Petitioner in Writ Petition.

Mr.S.S.Patwardhan for Respondent No.1.

Ms.R.A Salunke,AGP for the State.

....

**CORAM : NARESH H. PATIL AND
M.S. KARNIK, JJ.**

22nd December, 2016.

P.C.:

1. Learned Counsel appearing for the petitioner submits that in Public Interest Litigation No.29 of 2015 order came to be passed on 04th April, 2016 by the Division Bench of this Court (Coram : V.M.Kanade and M.S.Karnik, JJ.) which reads as under:

“The Respondent – corporation shall carry out the demolition work and for that purpose they have asked the police help. If such a request is made, Respondent No.4 shall provide police help to Respondent No.2 With this Direction, PIL is disposed of, with liberty to apply”.

Learned Counsel for the petitioner has also placed on record another order dated 20th April, 2016 in Civil Application (ST) No.11826 of 2016 in Public Interest Litigation No.29 of 2015 passed by the Division Bench of this Court (Coram : V.M.Kanade & M.S.Karnik, JJ.) which reads as under:

“1. Following order is passed by this Court in Public Interest Litigation No.29 of 2015 on 4th April, 2016:

“The Respondent – corporation shall carry out the demolition work and for that purpose they have asked the police help. If such a request is made, Respondent No.4 shall provide police help to Respondent No.2 With this Direction, PIL is disposed of, with liberty to apply”.

2. The Applicant has stated in the application that he is protected by the interim order passed by the Civil Court.

3. It is clarified that the Corporation is at liberty to take action in accordance with law and it is further clarified that wherever any protection is granted to any occupant by virtue of an order passed by the Civil Court or by this Court in that case also such occupants shall not be dispossessed as long as the order is not vacated.

4. Both the Civil Applications are disposed of accordingly.”

2. Learned Counsel appearing for the petitioner apprehends that at the behest of 3rd party, the Corporation authorities would evict these persons from the subject place, land premises. Therefore, interim protection granted by this Court shall be continued.

3. Learned Counsel appearing for the Corporation submits that the subject land is reserved for public play ground in D.P. reservation. The original owner is one Mr. Sonawane.

4. Learned Senior Counsel appearing for intervention submits that in accordance with the order passed by this Court in Public Interest Litigation, the authorities shall take necessary action to evict these persons.

5. Counsel appearing for the Corporation has placed on record a copy of order passed in R.C.S. No.199/2016 by the Civil Judge (S.D.), Malegaon dated 06.08.2016. Counsel submits that some petitioners and other similarly situated persons have filed a suit to protect their possession but failed to obtain any order in their favour.

6. In the facts, we observe that the petitioner may resort to appropriate alternate remedy for redressal of their grievances. Therefore, we are not inclined to interfere in exercise of our writ jurisdiction. However, we direct the parties to maintain status-quo in respect of possession of the petitioners for a period of three weeks from today.

Counsel for the Corporation to inform the order of status-quo to the authorities.

7. Civil Application stands disposed of

(M.S.KARNIK, J)

(NARESH H. PATIL, J)