

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE JURISDICTION
WRIT PETITION NO. 1240 OF 2013

Mr. Vaman Shankar Bhoir

.....Petitioner

V/s.

The Commissioner, Kalyan-Dombivli
Municipal Corporation and others

....Respondents

Ms. Preeti B. Walimbe advocate for the petitioner

Mr. Prashanat Kamble i/b Mr. A. S Rao for respondent nos. 1 & 2.

Mr. Vaibhav Kamble i/b Mr. Sachin S. Joshi for respondent no. 3.

**CORAM : SMT. VASANTI A. NAIK,
RIYAZ I. CHAGLA, JJ.**

DATE : NOVEMBER 28, 2017.

P.C.

By this writ petition, the petitioner seeks a direction against the respondent nos. 1 & 2 to immediately take action for demolition of the illegal construction made by the respondent nos. 3 to 5 in survey no. 112.

The learned counsel for the respondent no. 3 states that the petitioner had filed a civil suit seeking a declaration that the construction made by the respondent no. 3 on the concerned land is illegal. It is stated that certain other prayers are also made in the suit. It is stated that the petitioner has availed two remedies at the same time. It is stated that the petitioner has filed the civil suit

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and also filed this writ petition seeking similar relief pertaining to the demolition of the illegal construction.

In the circumstances of the case, when the civil suit is pending and the issue pertaining to the illegality or otherwise of the construction would be decided by the civil court, it would not be proper to direct the respondent nos. 1 & 2 to take coercive steps against the respondent nos. 3 to 5 for the demolition of the structure. Hence, we dispose of the writ petition by keeping the points raised in the petition, open. If the suit is decided against the respondent nos. 3 to 5, the petitioner may avail the appropriate remedy. Order accordingly. No costs.

[RIYAZ I. CHAGLA J.]

[SMT. VASANTI A. NAIK, J.]