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

WRIT PETITION NO. 4661 OF 2014

Smt. Suhas Chandrakant Mhatre ...Petitioner
Vs.
The State of Maharashtra & Ors ...Respondents

**WITH
CIVIL APPLICATION NO. 1147 of 2016
IN
WRIT PETITION NO. 4661 OF 2014**

Raymond Elias Gonsalves ...Applicant
Vs.
The State of Maharashtra & Ors. ...Respondents

Mr. Shailendra S. Kanetkar, Advocate for the Petitioner
Mr. Satyajeet Shirke and Mr. Akshay Deshmukh
i/b. Mr. U.P. Warunjikar, Advocate for the Applicant
in CA No. 1147/2016
Mr. V.N. Sagare, AGP for Respondent Nos. 1 & 5
Ms. Swati H. Sagrekar, Advocate for Respondent Nos. 2 to 4

**CORAM : B.R.GAVAI &
M.S. KARNIK, JJ.
DATED: 24TH AUGUST, 2017**

P.C.:

1. The Petitioner has filed the present Petition praying for relief against the Corporation directing to remove the

unauthorised construction standing on the property owned by the present Petitioner.

2. The Petitioner has already filed a suit being Civil Suit No.334 of 2013 against the person who is alleged to have constructed the unathorised construction.

3. The perusal of the said suit would reveal that the Petitioner has specifically averred that one Mr. Raymond Elias Gonsalves was unauthorisedly making construction on the suit property and has sought an order of injunction restraining the said Gonsalves from proceeding further with the said unauthorised construction. The Corporation has also been impleaded as party Respondent in the said Civil Suit. It could thus be seen that the Petitioner is now simultaneously pursuing two remedies of the very same subject matter. We are of the considered view that in view of the Civil Suit filed by the Petitioner in the Civil Court the present Petition would not be tenable.

4. There is another ground on which the present Petition deserves to be dismissed. The Petitioner has not impleaded the name of Mr. Raymond Elias Gonsalves who was carrying out unauthorised construction. The Petition also suffers from non-joinder of necessary party. The Petition is, therefore, rejected.
5. In view of the rejection of the Petition nothing survives in the intervention application bearing No.1147 of 2016.

(M.S. KARNIK, J.)

(B.R.GAVAI, J.)