

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

WRIT PETITION NO.12755 OF 2015

Sarwar Abdul Jalil Qureshi Petitioner

Vs.

Shri. Balaji N. Khatgaonkar & Ors. Respondents

Mr. Firoz A. Ansari for the Petitioner.

Mr. N.R. Bubna for Respondent nos. 1 and 2.

Ms. Shilpa Madki i/by Mrs. Neha Bhide for Respondent nos. 5 and 6.

**Coram : Smt. Vasanti A. Naik &
Riyaz I. Chagla, JJ.**

Date : 21st November, 2017

P.C.:

By this writ petition, the petitioner seeks a direction against the respondent-Corporation to demolish the illegal structure constructed by the respondent nos. 5 and 6 on plot no.3, Kalyan road, Bhiwandi.

Shri. Bubna, the learned counsel for the respondent nos.1 and 2-Corporation states by referring to the affidavit-in-reply of the respondent nos. 1 and 2 that is tendered in the Court today that the

respondent no.5 and some others have filed Regular Civil Suit No. 14 of 2015 in the Court of Civil Judge, Junior Division, Bhiwandi and by an order dated 7th January, 2015, the trial Court has directed the parties to maintain status-quo. It is stated that the Corporation has filed the say in the civil suit and till the interim order is operating, the Corporation would not be in a position to take action against the respondent nos.5 and 6 for the demolition of the structure.

It is stated on behalf of the respondent nos.5 and 6 that the respondent nos. 5 and 6 have also made an application to the respondent-Corporation for regularisation of the structure and till the same is pending, the Corporation would not be entitled to demolish the structure, more so when an interim order is operating against the Corporation, in a suit filed by the respondent nos. 5 and 6.

In the circumstances of the case, we are not inclined to issue any direction against the Corporation for taking action for the demolition of the structure constructed by the respondent nos. 5 and 6 on the concerned land. In case the order of status-quo is vacated and the application for regularisation of the structure, as made by the respondent nos. 5 and 6, is decided, the petitioner would have a cause of action to take up appropriate proceedings. Presently, no directions can be issued against the Corporation to demolish the building-structure constructed by the respondent nos. 5 and 6.

With the aforesaid observations, we dispose of the writ petition with no order as to costs.

(Riyaz I. Chagla, J.)

(Smt. Vasanti A. Naik, J.)