

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1885 OF 2014

Smt. Felomina John Ghonsalves & Anr. ... Petitioners
Vs.
Smt. Gracy Anton Cerejo & Ors. ... Respondents

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Ms. Neeta Karnik for the Petitioners.
Ms. Gauri Godse for Respondent nos. 1 to 5.
Ms. Swati H. Sagvekar for Respondent nos. 6 to 7.
Mr. B. V. Samant, AGP for Respondent No.8.

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**CORAM : B. R. GAVAI AND
M. S. KARNIK, JJ.**

DATE : AUGUST 07, 2017.

P.C. :

1. The petitioners have approached this Court seeking a direction to the respondents to remove the alleged unauthorized construction of respondent nos. 1 to 5.

2. It is the contention of the petitioners that the learned Civil Judge Senior Division, while deciding the application filed by the petitioners, who are also the complainants, has observed that it is for the Municipal Corporation to decide whether the construction of the said respondents is authorized or not. The learned counsel submits that the learned Civil Judge has also observed that it is for the Municipal Corporation to take such action as is permissible in law.

3. We find that for the very same relief, two proceedings have been taken out by the petitioners. One is the Regular Civil Suit and secondly, the present Petition. It is well settled law that when a party has two remedies available, if it decides to take recourse to one remedy, then it will not be permissible for it to take recourse to the second remedy. In that view of the matter, on the basis of the doctrine of election, in our considered view, the present petition cannot be entertained. The Petition is, therefore, rejected. The petitioners, at this stage, request for expeditious disposal of the suit. Taking into consideration that the suit is pending since the year 2013, we request the learned trial Judge to expedite disposal of the suit.

(M. S. KARNIK, J.)

(B. R. GAVAI, J.)