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

WRIT PETITION NO. 12128 OF 2013

Smt. Saleha W/o. Mohd Esa Shaikh ... Petitioner
Versus
Bhiwandi Nizampura City Municipal ... Respondents
Corporation & 4 ors.

None for the Petitioner.

Mr. N.R. Bubna, for Respondent No.1.

Mr. Rohan P. Surve, for Respondent Nos. 3 and 4.

**CORAM: SMT. VASANTI A NAIK AND
MR. RIYAZ I. CHAGLA, JJ.**
DATED: 6TH NOVEMBER 2017

PC:-

By this writ petition, the petitioner seeks a direction against the Bhiwandi Nizampura City Municipal Corporation to take appropriate action for demolition of the illegal construction made by the respondent nos. 2 to 4 on the land described in the writ petition.

According to the petitioner, though the respondent corporation had served the notices on the respondent nos. 2 to 4 under the Maharashtra Regional Town Planning Act, 1966 and the Mumbai Municipal Act for removing the illegal construction, no further steps are taken by the corporation to ensure that the illegal construction is removed.

Shri Bubna, the learned counsel appearing for the corporation states by referring to the affidavit in reply filed on behalf of the corporation that regular civil suit no. 1271 of 2013 is

filed by the respondent no.2 and in the said suit the corporation is restrained by an order of temporary injunction from taking action for demolition of the construction. It is submitted that the corporation has made an application for the dismissal of the suit on the ground of maintainability but the same is not yet decided. It is stated that if the construction is found to be illegal, appropriate steps would be taken against the erring respondents after the injunction order is vacated or the suit is decided.

In the circumstances of the case, it would be necessary to dispose of writ petition by accepting the statement made on behalf of the corporation. Hence, by accepting the statement made on behalf of the corporation, which would be binding on the corporation, we dispose of the writ petition with no order as to costs.

(RIYAZ I. CHAGLA J.)

(SMT. VASANTI A. NAIK, J.)