

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION NO.1905 OF 2016

Mr. Chandrakant Dattaram Vichare ... Petitioner.

Versus

State of Maharashtra
and others ... Respondents.

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Ms. Reshma Ravi i/b. Mr. K.P. Ravi for the Petitioner.
Ms. Vandana Mahadik for MCGM.
Mr. B.S. Shukla for Respondent Nos.3 and 4.

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

DATE : 29th November, 2017.

P.C. :

By this writ petition, the petitioner has sought a direction against the Municipal Corporation to demolish the illegal construction made by the respondent no.3. The petitioner has sought an action for disqualification of the respondent no.3 in view of the illegal construction made by him.

It is stated on behalf of the respondent nos.3 and 4 that similar notice was served by the Corporation on the concerned respondents and the said notice was challenged by the respondent no.4 in a suit bearing L.C. Suit no.7520/1999 and the said suit was decreed. It is stated that in pursuance of the notice served by the Corporation on the respondent no.4 on 07.12.2015, the Corporation had passed an order dated 03.11.2017 and the said

order pertaining to the demolition of the illegal construction is challenged by the respondent no.4 in L.C. Suit no.2526/2017 and in the said suit, the Municipal Corporation is restrained from demolishing the suit structure. It is stated that in such circumstances a direction may not be issued against the Corporation to take action for demolition of the construction made by the respondent nos. 3 and 4, as the said order would be in conflict with the orders passed by the Civil Court.

In the circumstances of the case, we are not inclined to grant the relief sought by the petitioner in the instant petition. If the interim order passed by the trial Court is vacated or the suit filed by the Respondent no.4 is dismissed, the Corporation is free to take appropriate steps. However, when an injunction order is operating against the Corporation in the suit filed by the concerned respondents, it would not be proper for this Court in exercise of the writ jurisdiction to direct the Corporation to demolish the structure of the concerned respondent.

Hence, we dispose of the Writ Petition with no order as to costs.

(Riyaz I. Chagla J)

(Smt.Vasanti A Naik, J)