

Amk

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

WRIT PETITION NO. 1336 OF 2015

Accost Co-op Housing Society Ltd. .. Petitioner
Vs.
The Assistant Commissioner,
Mumbai Municipal Corporation .. Respondent

Mr. Jamshed Ansari for the Petitioner.
Mr. Pradeep Thorat i/b Tejpal S. Ingale for Respondent No.3.
Ms. K. H. Mastakar for the MCGM.

**CORAM : SMT. VASANTI. A. NAIK AND
MR. RIYAZ I. CHAGLA, JJ.**
DATE : 27th NOVEMBER, 2017.

P. C. :

By this writ petition, the petitioner seeks a direction against the corporation to demolish the illegal construction carried out by the respondent No.3 on the stilt parking and open parking space of the society.

During the pendency of the writ petition, we had directed the respondent-corporation to inspect the premises and consider whether the respondent No.3 had made illegal construction.

Ms. Mastakar, the learned counsel for the corporation states that the inspection was carried out and since it was found that the construction was illegal, a notice under Section 351 of the Mumbai Municipal Corporation Act was served on respondent No.3. It is stated that the respondent No.3 has challenged the said notice in a suit before the City Civil Court and the matter is now pending in an Appeal against Order.

Shri Thorat, the learned counsel for the respondent No.3 states that an application is made by the respondent No.3 for regularization of the illegal construction and in the Appeal against Order, an order of status quo

is operating in favour of respondent No.3.

In the aforesaid set of facts, a direction cannot be issued against the corporation to remove the unauthorised construction made by respondent No.3. If the interim order in the Appeal against Order is vacated and the regularisation-application made by respondent No.3 is rejected, the corporation could take appropriate steps for demolition of the illegal construction made by respondent No.3.

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.]