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

WRIT PETITION NO. 2712 OF 2014

Habib Badruzaman Khan and Ors.

.. Petitioners

Vs.

Municipal Corporation of Greater
Mumbai and ors.

.. Respondents

Mr. S. Shamim i/by Shamim and Co. for petitioners.
Mr. Sanjeev Singh for respondent no.4.
Ms. K. H. Mastakar for MCGM.
Mr. A. A. Mirza for respondent no.5.

CORAM: NARESH H. PATIL &
M. S. KARNIK, JJ.

FEBRUARY 06, 2017.

P.C.

1. The petitioners have filed Suit i.e. L.C. Suit No. 465 of 2012, in which Corporation is one of the defendants, in respect of the same subject property. Learned counsel for the petitioners submits that as petitioners came to know that there is one more person, who had encroached upon the suit property, present writ petition is preferred.

2. We have perused the earlier order passed by this court and the affidavit tendered by the learned counsel for the Corporation, which is taken on record. Learned counsel appearing for the Corporation submits that some action has been taken against the persons named in the affidavit.

3. In the facts, we observe that the questions in respect of the possession of the subject property are raised. The plea as to whether the persons had illegally encroached upon the suit property and were in illegal occupation of the same is required to be raised in the suit which has been filed. The Corporation is free to take appropriate steps in case it is noticed and pointed out that illegal structures have been constructed on the subject property.

4. The petitioners may resort to appropriate remedies in the pending civil suit. Keeping all issues on merits open, petition is disposed of.

(M. S. KARNIK, J.)

(NARESH H. PATIL, J.)