

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

**WRIT PETITION NO.823 OF 2016
WITH
NOTICE OF MOTION (L) No.520 of 2017
IN
WRIT PETITION NO. 823 OF 2016**

Kamruddin Industrial Premises
Co-op Society Ltd.

... Petitioner.

Versus

Municipal Corporation of
Greater Mumbai and others

... Respondents.

....

Mr. Altaf Khan i/b. Ms. Anjali R. Awasthi and Mr. Yousuf Khan for
the Petitioner.

Ms. Pallavi Thakar for MCGM.

....

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

DATE : 7th November, 2017.

P.C. :

By this writ petition the petitioner seeks a direction against the respondent-Corporation to take further action for the demolition of the illegal structures in pursuance of the notice served on the respondent Nos. 3 and 4.

The learned counsel for the Corporation states that the respondent Nos. 3 and 4 have filed a civil suit in which an order of temporary injunction restraining the Corporation authorities from demolition of the alleged illegal structures is passed. It is stated

that the matter pertaining to the legality of the notices served by the Corporation on the respondent Nos.3 and 4 is pending in the civil suit. It is submitted that the Corporation authorities can take further steps only after the suit is decided or the injunction granted in favour of the respondent Nos. 3 and 4 is vacated.

In the aforesaid set of facts, we find that the prayer made by the petitioner for a direction against the Corporation authorities to demolish the structures erected by the respondent nos. 3 and 4 cannot be granted. The civil suit is filed by the respondent Nos. 3 and 4 and an order of temporary injunction operates against the respondent-Corporation in the said suit. If that be so, a direction cannot be issued in exercise of the writ jurisdiction to the Corporation authorities to take action for removal of the structures erected by the respondent Nos. 3 and 4. The Corporation is free to take appropriate action if the temporary injunction order is vacated or the suit is decided.

Hence, by granting liberty to the petitioner to take up appropriate steps after the disposal of the suit or the vacation of the order for temporary injunction, we dispose of the writ petition with no order as to costs.

With the disposal of the writ petition, notice of motion (stamp) No.520/2017 also stands disposed of .

(Riyaz I. Chagla J)

(Smt.Vasanti A Naik, J)