

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.2663 OF 2018

Bayabai Ramu Gungune	...	Petitioner
<i>Versus</i>		
The Bhiwandi Nizampur City Municipal Corporation and others	...	Respondents

Mr. Atharva A. Dandekar for Petitioner.
Mr. N. R. Bubna i/b. J. Shekhar & Co. for Respondent No.1.
Mr. Kishor Patil i/b. Mr. Nilesh M. Wable for Respondent No.5.

CORAM: NARESH H. PATIL, ACTING CJ &
R. G. KETKAR, J.
DATE : AUGUST 31, 2018

P.C.

Petitioner prays for following reliefs:

- “a. This Hon'ble Court may be pleased to issue an appropriate writ, order or directing respondent No.1 to take appropriate action against the unauthorized construction carried out by respondents upon the said sheds;
- b. This Hon'ble Court may be pleased to issue an appropriate writ, order or directing respondents not to create any third party interest in respect of illegal and unauthorized construction carried out over the said sheds.”

2. A show cause notice was issued by the respondent No.1 to the respondent No.5. Counsel appearing for the Corporation submits that on 05.04.2018, an order was passed declaring the subject construction as illegal one, which order according to the Counsel for respondent No.1 is not known to him. The Counsel appearing for the respondent No.5 submits that the

Civil Suit has been filed earlier.

3. We have heard the learned Counsel appearing for the petitioner and we find that certain questions of facts are raised in respect of the subject premises, location of alleged encroachment, etc, which cannot be addressed in the present proceedings.

4. In view of the statement made by the Corporation, the parties may resort to appropriate remedies available in law. All contentions of the parties are expressly kept open. Petition is disposed of.

R. G. KETKAR, J.

ACTING CHIEF JUSTICE