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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 5200 OF 2013

Vakas Mustak Patel ... Petitioner
Versus
Bhiwandi Nijampur City Municipal Corporation ... Respondents
and Ors.

Mr. A.V. Anturkar, Senior Advocate I/b Mr. Sugandh B. Deshmukh
and Mr. Ajinkya Udane, for the Petitioner.
Mr. N.R. Bubna, for Respondent Nos. 1, 2 and 4.

**CORAM: A.S. OKA AND
RIYAZ I. CHAGLA, JJ.**
DATE: 10TH AUGUST, 2018

PC:-

1. Heard the learned Senior Counsel appearing for the Petitioner and the learned counsel appearing for the Respondent Nos. 1, 2 and 4. The Respondent Nos.1, 2 and 4 have failed to take action in respect of illegal filling of a portion of a nallah by using sand as well as urban waste. It is stated that the nallah is close to two houses which are more particularly described in the Petition and which are owned by the Petitioner. The Petitioner is relying on photographs on pages 12 and 13.

2. On 26th June, 2018, this Court passed an order directing the designated officer to visit the site of the subject matter of the Petition and to submit a report. Accordingly, on 26th July, 2018,

the Health Inspector of Ward No.6 visited the site and submitted a report to the Assistant Municipal Commissioner who is the designated officer. It is stated in the report that though on three consecutive dates, the officer attempted to meet the Petitioner, he was not available. It is further recorded that the Petitioner's brother informed that there was no such nallah in existence. In the report it is observed that around the house of the Petitioner, cleanliness is being maintained and regular cleaning work is being done. He has annexed to the report photographs taken on 25th July, 2018.

3. There is no Affidavit filed by the Petitioner disputing the correctness of the contents of the said report dated 26th July, 2018. In any case, the issue whether there was a nallah in existence or not cannot be decided in writ jurisdiction under Article 226 of the Constitution of India.

4. Subject to what is observed above, at this stage, it is not necessary to entertain this Petition and the same is disposed of.

(RIYAZ I. CHAGLA J.)

(A.S. OKA, J)