

ISM

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

WRIT PETITION (ST) NO. 19384 OF 2015

Shri.LaxmiNrusinha Trust, Mahim, MumbaiPetitioner

V/s.

The Divisional Commissioner and othersRespondents

Mr. Prajakt Arjunwadkar for the petitioner.

Mr. Nikhil Pawar I/b Mr. Nagesh Chavan for respondent nos. 2 & 4.

CORAM : NITIN W. SAMBRE, J.

DATE : 27th JUNE, 2018.

P.C.

The structure that was built by the petitioner was already demolished by the Grampanchyat since it was noticed to be illegal one. A submission is made by the learned counsel for the petitioner that the impugned order passed by the Divisional Commissioner is not sustainable for the reason that the structure was constructed in the land owned by the Trust. The Divisional Commissioner has recorded a finding that the petitioner Trust has failed to establish its ownership over the suit property, so also there is no sanction *qua*

temporary construction carried out.

2 In the aforesaid background, in view of the involvement of disputed question of fact, this Court is not inclined to go into the merits of the matter and refrain itself from exercising extraordinary writ jurisdiction.

3 However, considering the nature of claim canvassed, the petitioner Trust is at liberty to take out such other proceedings as shall be permissible and available in law in regard to development, if any to be carried out on such property. So far as the issue of compensation in regard to the damaged caused while removing illegal structure is concerned, it shall be open for the petitioner to take out such other proceedings as are permissible and available in law.

4 Writ petition stands disposed of.

[NITIN W. SAMBRE, J.]