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

WRIT PETITION NO. 2842 OF 2017

SIBI Eapen Jacob	...	Petitioner
V/s.		
The Commissioner, Thane		
Municipal Corporation	...	Respondents

Mr. Pankaj J. Dash, for the Petitioner.

CORAM : DR.SHALINI PHANSALKAR-JOSHI, J.

DATE : 20th MARCH, 2018.

P.C. :

1] Heard learned counsel for the petitioner.

2] By this petition, filed under Article 227 of the Constitution of India, the petitioner is challenging the judgment and order dated 12.7.2016, passed by District Judge 9, Thane, thereby dismissing Misc. Civil Appeal No.109 of 2016, which was preferred by the petitioner against the order dated 30th March, 2016 and 6.4.2016, passed by Civil Judge Senior Division, Thane, below Exh.5 in R.C.S. No.304 of 2016.

3] Application at Exh.5 was filed by the present petitioner for temporary injunction restraining the respondent Municipal

Corporation from acting in pursuance of the Notice issued by the Municipal Corporation, on the count that the sanctioned development plan does not go from the property of petitioner and the Officers of the Municipal Corporation have wrongly demarcated the suit premises and directed the petitioner to remove the structure.

4] This application was resisted by the Municipal Corporation, contending inter-alia that the Corporation was is acting as per the sanctioned Development Plan which shows that 30 meter wide road is passing from the properties as shown therein. Therefore, such application for interim relief should not be granted.

5] Both the trial Court and the Appellate Court have, on appreciation of the material, which was placed on record, concurrently held that there is no substance in the apprehension of the petitioner, therefore, the relief of interim relief as claimed cannot be granted as it will cause irreparable loss and hardship to the public. At large. Against this concurrent finding of the fact, recorded by the trial Court and the Appellate Court, the petitioner has approached this Court, contending that as per the sanctioned development plan, 30 meter wide road is not passing through the property of the petitioner, but it is just adjacent to the suit property.

6] In my considered opinion, when this contention was raised by the petitioner before the trial Court and the Appellate Court,

and both the Courts have rejected the same, in writ jurisdiction, this Court cannot enter into the correctness of that finding of the fact disturbing the same unless some perversity is shown therein. In my considered opinion, no perversity is found in the finding of the fact recorded by the trial Court and confirmed by the Appellate Court.

7] The Writ Petition, therefore, being without merits stands dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]