

Atul

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7596 OF 2014**

Mahesh Purswani

...Petitioner

Versus

The State of Maharashtra & Ors

...Respondents

Mr Sanjay S Patil, for the Petitioner.

Ms RA Salunkhe, AGP, for Respondent No. 1.

Mr Vijay D Patil, for Respondent No. 2.

Ms Minal J Chandnani, for Respondent No. 3.

**CORAM: S. C. DHARMADHIKARI &
G.S. PATEL, JJ**

DATED: 30th August 2019

PC:-

1. If the petitioner's business operations or his right to carry on business peacefully is adversely affected by an encroachment in front of his shop and that encroachment or that illegal construction also obstructs smooth passage of the members of the public and access to the petitioner's shop, then such matters, which involve disputed questions of fact, require that the petitioner must approach a competent Civil Court.

2. The petitioner cannot bring a writ petition and request the Court to go into these disputed questions of fact by holding a trial as if the writ petition is a civil Suit.
3. The petitioner will have to establish a legal right for such relief and must demonstrate and prove a legally actionable injury which makes it impossible for him to carry on the business operations smoothly.
4. In these circumstances when the petitioner has a complete remedy in the form of a suit in a competent Civil Court, this writ petition need not be entertained. It is dismissed.

(S. C. DHARMADHIKARI, J)

(G. S. PATEL, J)