

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8584 OF 2019***

Shri Abdul Razzak Sunesra ... Petitioner
Vs
The State of Maharashtra
Through Govt. Pleader and Ors. ... Respondents

...

Mr. Sharique Nachan i/by Mr. S.S.Phatale for the
Petitioner.
Mr. A.P.Vanarse, AGP for the Respondent Nos.1 to 3.
Mr. Surel S. Shah for Respondent No.7.
Mr. Rajesh Kachare for Respondent No.5.

***CORAM : B.P.DHARMADHIKARI &
SANDEEP K. SHINDE JJ.***
DATE : SEPTEMBER 30, 2019

P.C. :

Heard for sometime.

2 *The learned counsel for the petitioner states that respondent no.7 has raised illegal construction after initial rejection of building permission. He later on, sought application for repairs and under that guise has raised new structure.*

3 *Reply filed by respondent nos.4 and 5 -Planning Authority shows lack of clarity. Those respondents point out*

application seeking permission to carry out repairs moved by the respondent no.7. The said application is perhaps accompanied by details of repairs. Neither respondent nos.4 for 5 nor respondent no.7 has made available those details to this Court. Respondent Nos.4 and 5 have, on the contrary , granted permission to respondent no.7 to carry out sundry repairs.

4 Respondent no.7 has only averred before this Court that it has got necessary permission but it will be produced in pending civil suit.

5 According to the petitioner, civil suit has been filed only to protect the access way. The suit has been filed sometime in 2017 and appears to have been amended in April, 2018. That suit is still pending in the Court of Civil Judge, Junior Division, Mahabaleshwar.

6 We, therefore, find that petitioner can raise all the challenges in that civil suit.

7 We are, however, inclined to expedite that suit and we direct defendants in the suit to co-operate with the

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Trial Court in expeditious disposal of the suit.

8 *Parties to appear before the said Court at Mahabaleshwar on 7th October, 2019.*

9 *We grant parties leave to amend their pleadings within next month thereafter. If pleadings are amended and complete, the Trial Court shall attempt to decide the suit finally by 30th April, 2020.*

10 *With these directions and keeping all the contentions open, we dispose of the petition.*

(SANDEEP K. SHINDE, J.) (B.P.DHARMADHIKARI, J.)