

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION (L) NO. 1211 OF 2019

Nadeem Abdul Sattar Lakdawala	}	Petitioner
versus		
The Municipal Corporation of	}	
Greater Mumbai and Ors.	}	Respondents

WITH
CHAMBER SUMMONS NO. 127 OF 2019
IN
WRIT PETITION (L) NO. 1211 OF 2019

Nelson Francis Bugri	}	Applicant
in the matter of		
Nadeem Abdul Sattar Lakdawala	}	Petitioner
versus		
The Municipal Corporation of Greater	}	
Mumbai and Ors.	}	Respondents

Mr.Shoaib Memon with Ms.Iram Memon
for the petitioner.

Ms.K.H.Mastkar for the Municipal
Corporation.

Mr.H.B.Takke-AGP for State.

Mr.Sushil Upadhyay I/b. Mr.A.M.Saraogi
for respondent nos. 6 and 7.

Mr.Rajesh Dixit I/b. Mr.V.Tripathi for the
applicant in the chamber summons.

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

DATED :- JUNE 12, 2019

P.C. :-

1. Heard.
2. The chamber summons (CHSW/127/2019) is entirely misconceived for the simple reason that anybody who claims that the plans for construction have been erroneously or illegally sanctioned and in relation to an immovable property, in which the applicant seeking sanction or development permission has no right, title and interest, then, the remedy is to file a civil suit and establish and prove the right, title and interest in such property. The applicant in this chamber summons has already filed a civil suit and that is pending. This chamber summons is, therefore, hopelessly misconceived and it is dismissed.
3. Needless to clarify that this court has never expressed any opinion with regard to the right, title and interest of parties in the immovable property. The contest in relation thereto must be decided independent of this writ petition and uninfluenced by any order therein.
4. Mr.Saraogi appearing for respondent nos. 6 and 7 fairly concedes that the remedy of these respondents is not to peep into the development permission granted by the Municipal Corporation or any proceedings in relation thereto. They ought to

establish their right, title and interest in the immovable property by approaching a civil court, which they will do.

5. In the event they approach the civil court, the issue relating to right, title and interest will be decided uninfluenced by any order in the writ petition. Needless to clarify that any application in any civil suit instituted by these respondents must be decided by the civil court only after a notice is served on the present petitioner.

6. The Municipal Corporation had no power to take cognizance of any private dispute and stall the construction activity. It could not have issued the notice and particularly the notice dated 24th April, 2019. That notice is taking cognizance of the *inter-se* dispute and which dispute cannot be decided by the municipal authorities. It is beyond their purview or their power. The development permission has to be granted by applying the parameters permissible in the planning law. A dispute in relation to right, title and interest in the immovable property could not have been taken note or cognizance of, particularly to cancel the development permission, the Intimation of Disapproval/Commencement Certificate.

7. The notices in that regard are quashed and set aside subject to the above. The writ petition is allowed in terms of prayer clause (a).

(G.S.PATEL, J.)

(S.C.DHARMADHIKARI, J.)