

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

WRIT PETITION NO.1739 OF 2017

The Chikhal Market Company Limited ... Petitioner

Vs

**Municipal Corporation of Greater Mumbai
and Ors. ... Respondents**

Mr.B.N.Vaishnawa I/b M/S Bharat
Vaishnawa and Co. for the Petitioner.

Ms.Rupali Adhate for Respondent Nos.1,2
and 4.

Mr.P.G.Lad a/w Ms.Sayli Apte a/w
Ms.Aparna Murlidharan for Respondent
No.3.

**CORAM :- S. C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.**

DATE :- APRIL 2, 2019

P.C. :-

1. After hearing both sides, we find that the nature of the dispute is such that it will not be possible to decide it in our writ jurisdiction. The petitioners have been describing the relationship in between them and respondent Nos.5 to 8 as tenants. If the tenants have done something beyond the limited right granted to them or made unauthorised, illegal construction within the tenanted premises, then, it is not as if the petitioners claiming

through the landlord are remedyless. They can approach the competent court and complain that the tenants having carried out an unauthorised and illegal construction, they need to be evicted. So long as they are not evicted, the petitioners can even pray for appropriate interim relief restraining these respondent Nos.5 to 8 from perpetuating and continuing their acts. Further, the extent of the act committed by them can be proved by requesting the Court to appoint the Court Commissioner to visit the site.

2. In the circumstances, granting that liberty to move the competent court, we dispose of this writ petition. In the event, such a suit is brought, that may be decided as expeditiously as possible by the competent court. We have not expressed any opinion on merits and all the contentions are kept open.

(B.P.COLABAWALLA, J.)

(S.C.DHARMADHIKARI, J.)