

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

WRIT PETITION NO.6676 OF 2019

Mustaq Bashir Bagwan
and ors.

.. Petitioners

Versus

The State of Maharashtra and ors.

.. Respondents

Mr A.S. Bajaj, Advocate for petitioners
Mr P.S. Patil, Addl.G.P. for respondents no.1, 2, 4 and 5
Mr V.S. Bedre, Advocate for respondent no.3
Mr R.S. Sadaphule, Advocate for respondents no. 6 to 12

- WITH -

WRIT PETITION NO.6765 OF 2019

Sangamner Municipal Council
Sangamner, through Chief
Officer

.. Petitioner

Versus

Kailas Shriram Bakare and ors.

.. Respondents

Mr V.S. Bedre, Advocate for petitioner
Mr R.S. Sandanphule, Advocate for respondents no.1, 2A, 3, 5, 4A, 6,
7, 9, 12 to 14, 15, 16, 17, 19, 20A, 21 and 22

**CORAM : S.V. GANGAPURWALA AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 3.2.2020

ORAL ORDER :

1. Heard Mr Bajaj and Mr Bedre, learned Advocates for petitioner in respective petitions, Mr Sandanphule, learned Advocate for respondents in both the Writ Petitions.

2. The contention of the petitioners is that the respondents herein have encroached upon the parking area of the properties owned by Municipal Council. The Municipal Council is required to remove the

encroachments. According to Mr Bajaj, thrice the encroachments were removed, but again the encroachments have been made. The provisions of the Maharashtra Regional Town Planning Act also come into operation. It is only on the ground that the notices issued by the Municipal Council are not served on the encroachers, the encroachers have been granted interim protection. Civil Court has granted injunction in favour of the encroachers.

3. We have considered the submissions. Order of injunction is in favour of the plaintiffs in Civil Suit bearing R.C.S. No.538 of 2017. The appeal filed by the Municipal Council is dismissed. Municipal Council has assailed the said order and the same is sub judice in Writ Petition No.6765 of 2019.

4. The Civil Suit is still pending.

5. In light of that it would be appropriate for the Civil Court to decide the suit bearing R.C.S. No.538 of 2017 on its own merits in a time bound manner.

6. The plaintiffs in R.C.S. No.538 of 2017 shall add the petitioners in Writ Petition no.6676 of 2019 as party defendants. It is submitted that the next date before the trial Court in R.C.S.No.538 of 2017 is fixed on 26.2.2020. On the said date, the plaintiffs of the said suit shall carry out the amendment and add petitioners in Writ Petition No.6676 of 2019. These petitioners may *suo moto* appear in the said suit on the said date. The written statement, if not filed shall be filed by the defendants within fifteen days thereafter.

7. It is for the Municipal Council to take steps in accordance with law, certainly without breaching the order of injunction.

8. The learned Judge dealing with the R.C.S.No.538 of 2017 shall decide the said suit on its own merits within a period of four months from the date, written statements are filed by the parties. The parties shall co-operate in expeditious disposal of the said suit. The parties shall not take unnecessary adjournments. If the Court feels that any party is protracting the matter, then the Court pass effective orders thereto. All contentions are kept open.

9. Writ Petitions are accordingly disposed of. No costs.

(SHRIKANT D. KULKARNI, J.)

(S.V. GANGAPURWALA, J.)

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