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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 231 OF 2020

Mrs. Bayabai Ramu G Ungune

...Petitioner.

vs

State of Maharashtra & Ors.

...Respondents

.....

Mr. Akshay A. Kapadia for the Petitioner

Mrs M.P.Thakur AGP for Respondent Nos.1 and 2/ State.

Mr. N.R.Bubna for Respondent No.3.

Mr. Kishor Patil i/b Amol Mhatre for Respondent Nos.4 to 8.

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**CORAM : S. J. KATHAWALLA &
B. P. COLABAWALLA, JJ.**

DATED 16th JANUARY , 2020.

P.C. :

By the above Writ Petition the Petitioner seeks directions against the Respondent Corporation and its officers to take immediate action on the various complaints made by the Petitioner and the notices issued by the Corporation qua the illegal construction carried out by Respondent Nos.4 to 7 and demolish the same.

2. The Petitioner himself has annexed to his Writ Petition an order dated 31st August, 2018 passed in Writ Petition No. 2663 of 2018 filed by the Petitioner against the same Municipal Corporation qua the same illegal construction, which Writ Petition has been disposed off. Paragraph Nos.2,3 and 4 of the order dated 31st August, 2018 reads thus :

“2. A show cause notice was issued by the respondent No.1 to the respondent No.5.

Counsel appearing for the Corporation submits that on 05.04.2018, an order was passed declaring the subject construction as illegal one, which order according to the Counsel for respondent No.1 is not known to him. The Counsel appearing for the respondent No.5 submits that the Civil Suit has been filed earlier.

3. *We have heard the learned Counsel appearing for the petitioner and we find that certain questions of facts are raised in respect of the subject premises, location of illegal encroachment, etc., which cannot be addressed in the present proceedings.*
4. *In view of the statement made by the Corporation, the parties may resort to appropriate remedies available in law. All contentions of the parties are expressly kept open. Petition is disposed of.”*

3. The learned Advocate appearing for the Petitioner admits that the subject matter of Writ Petition No. 2663 of 2018 and the above Writ Petition are same. The Civil Suit which was filed by Respondent Nos.4 to 7, is pending till date. In view thereof, the question of granting any relief to the Petitioner, who has tried to once again take a chance before this Court by filing the above Writ Petition, does not arise at all. The Writ Petition is dismissed accordingly.

4. The learned Advocate appearing for the Petitioner states that since the Writ Petition is dismissed, the Petitioner be allowed to file an intervention application in the Civil Suit pending before the Civil Judge, Junior Division, Bhiwandi. The Petitioner is always at liberty to intervene in the Civil Suit by filing an Intervention Application. The Intervention Application, if filed, shall be decided by the Civil Judge, Junior Division, Bhiwandi on its own merits uninfluenced by this order.

(B. P. COLABAWALLA, J.)

(S. J. KATHAWALLA, J.)