

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

1043 Writ Petition No.10085 Of 2021

Dhamma Dnyanoba Lokhande and Another .. Petitioners
Versus

Latur Municipal Corporation
Through Its Commissioner and Others ..Respondents

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Mr Sushant V. Dixit, Advocate for the Petitioners
Mr A.R. Kale, AGP for the Respondent – State

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**CORAM : S. V. GANGAPURWALA
AND
R.N. LADDHA, JJ.**

DATE : 09-09-2021

PER COURT : -

1. We have heard Mr Dixit, learned Advocate for the petitioners.
2. The petitioners assail the notice issued to them directing to remove the encroachment. The decree of the Civil Court is in favour of the petitioners, whereby the injunction is clamped against the respondent from interfering in the possession of the petitioners over the suit property. The appeal filed by the Municipal Council is dismissed. It is submitted that in the Second Appeal the stay has been specifically refused.
3. The petitioners can execute decree of injunction under

Order - 21, Rule - 32 of the Code of Civil Procedure. The notice does not indicate about demolition of any illegal construction, but it is for removal of encroachment only. The petitioners are at liberty to execute the decree of injunction that is operating in their favour.

4. In view of that, at present, we are not exercising our writ jurisdiction under Article 226 of the Constitution of India, however if any further notice is issued with regard to the construction, the petitioners may take appropriate steps.

5. In that event, all contentions are kept open. Writ Petition is disposed of. No costs.

[R.N. LADDHA]
JUDGE

[S. V. GANGAPURWALA]
JUDGE

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