

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

WRIT PETITION NO. 616 OF 2021

Maruti Nathu Salunkhe alias Chor	Petitioner
v/s.	
The Municipal Corporation of City of Thane	 Respondent

Mr. Rajesh S. Datar for the Petitioner.
Mr. Anand S. Kulkarni for the Respondent.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 01st APRIL, 2021.

P. C. :-

. The Petitioner herein has challenged the order dated 09/12/2020 whereby learned 2nd Joint Civil Judge, Senior Division, Thane has dismissed the Application at Exhibit – 19 in Regular Civil Suit No.798/2019 for interim mandatory injunction as to direct the Respondent – Corporation to reconstruct the demolished structure and to restore and reconnect the water and electricity supply.

2. The case of the Petitioner is that he was selling the sugarcane juice in the subject structure and that the same has been demolished by the Respondent – Corporation illegally and unauthorizedly. Whereas, the Respondent has claimed that the structure is a part and parcel of

Amardeep Building which was in dangerous and dilapidated condition and unsafe for human habitation. It is stated that the building along with structure has been demolished after considering the inspection report submitted by VJTI institute and after following the due procedure.

3. Having gone through the records and particularly the reasons mentioned in the impugned order, in my considered view, this is not a fit case to grant interim mandatory injunction. The impugned order, therefore, does not warrant any interference. Hence, the Petition is dismissed.

4. Mr. Rajesh Datar, learned counsel for the Petitioner submits that while dismissing the Application for Intervention, the Trial Court has observed that the suit structure is illegal. He apprehends that the Trial Court may get influenced by the said observation while deciding the Suit on merits. Suffice it to say that observations made while disposing of the Interim Applications are always *prima facie* in nature.

(SMT. ANUJA PRABHUDESSAI, J.)