

Ekramul Hasan Abdul Hameed Momin ...Petitioner
Vs.
State of Maharashtra & Ors. ...Respondents

Mr. Jagdish G. Aradwad (Reddy) a/w. Adv. Abhijit Patil for the
Petitioner
Mr. Y. D. Patil, AGP for Respondent-State
Mr. Suraj N. Naik i/b. Mr. R. D. Suryawanshi for the Respondent No.5
Adv. Pooja R. Singh i/b. Adv. Bubna for Respondent-Corporation

**CORAM : A. A. SAYED &
ABHAY AHUJA, JJ**

DATED : 16th DECEMBER, 2021

The Petition has been filed essentially seeking directions to the Respondent-Corporation to take action against the Respondent No. 5-Developer in respect of construction which according to the Petitioner is illegal and unauthorized.

2. Affidavit-in-Reply has been filed by the Respondent-Corporation. In paragraph no. 3 of the said Affidavit-in-Reply, it is stated as follows:

"3. I say that admittedly respondent corporation has issued notice in respect of concerned construction and has also lodged prosecution against concerned persons. I say that the Respondent No. 5 has filed R.C.S. No. 342 of 2015 in the Court of CJJD Bhiwandi for restraining respondent corporation from demolishing impugned construction. I say that by order dated 08/09/2015 Ld. Civil Court has granted

temporary injunction restraining respondent corporation from demolishing impugned construction. I say that suit is pending and interim order is in force. I say that appropriate action will be taken in respect of concerned structure, in accordance with orders to be passed by civil court.”

3. We note that the Respondent-Corporation has already taken action by issuing notice and lodging prosecution against the concerned persons. Learned Counsel for the Respondent - Corporation states that so far as the civil suit (wherein the interim order is in force) is concerned, the same is partly heard before the Civil Judge Junior Division, Bhiwadi.

4. In the circumstances, we dispose of the Petition by accepting the statement made in paragraph no. 3 of the Affidavit-in-Reply of the Respondent-Corporation that appropriate action in respect of the concerned structure shall be taken. Such action shall be taken in accordance with law after the order is passed by the Civil Court disposing of the suit. We accept the statement in the Affidavit-in-Reply of the Respondent-Corporation as an undertaking to this Court.

5. The Petition to stand disposed of in the aforesaid terms.

(ABHAY AHUJA, J.)

(A. A. SAYED, J.)