

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

WRIT PETITION NO. 3360 OF 2020

Rajesh s/o Pandhari Patil

-- Petitioner

vs.

Krushnakumar s/o Rambislal Shukla
and others

--Respondents

Mr. Rohan Malviya, Advocate for the Petitioner.

Mr. R. O. Chhabra, Advocate for the Respondent Nos.3 and 4.

CORAM : NITIN JAMDAR &
ANIL S. KILOR, JJ.

DATE : 05 FEBRUARY 2021

P. C. :

The learned counsel for the Respondent – Corporation points out that the reliefs sought for in the Petition that the Respondent Nos.1 and 2 should remove the construction on Survey No.171/1, is also a subject matter of a Civil Suit bearing No.533 of 2017 filed by the Respondent Nos.1 and 2 against the Respondent Nos.3 and 4 herein in which the Respondent Nos.3 and 4 have been restrained. The learned counsel for the Corporation states that there is clearly a private dispute between the Petitioner and Respondent Nos.1 and 2.

2. In view of this position *prima facie* a direction to the Respondent – Corporation when such a suit is pending cannot be

issued. According to us the contention of the Respondent – Corporation is correct that in such a private dispute the Corporation cannot be directed to remove a structure on the premise of an encroachment when the said issue was being debated in the Civil Court. As regards the direction for removal of encroachment of shops and public road is concerned, there are no particulars given in that respect.

3. Writ Petition is accordingly disposed of. The suit which is pending shall be decided on its own merit.

[ANIL S. KILOR, J.]

[NITIN JAMDAR, J.]