

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.8908 OF 2022

SHAIKH AYUB SHAIKH SHABBIR
VERSUS
THE STATE OF MAHARASHTRA THROUGH ITS
SECRETARY AND OTHERS

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Advocate for the Petitioner : Shri Sable Bhagwan R.
AGP for the Respondents/State : Shri S.G. Sangle

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CORAM : RAVINDRA V. GHUGE
&
SANJAY A. DESHMUKH, JJ.

DATE :- 10th October, 2022

Per Court :-

1. The petitioner has put forth prayer clause B as under

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“B) *By way of issuing writ of mandamus or any other appropriate writ, order or direction in the like nature, the Respondent Nos.2, 3 and 5 may kindly be directed to take necessary legal action against the Respondent No.6 to execute and implement the order dated 03.01.2015 issued by the Respondent No.2 to the Respondent No.5 and the Notice dated 21.03.2017 issued by the Respondent No.5 to the Respondent No.6 for removal of encroachment and for that purpose necessary orders may kindly be passed.*”

2. We have considered the submissions of the learned

advocate for the petitioner and the learned AGP.

3. Respondent No.6 herein, namely, Rameshwar Sakharam Sakhare was issued with the notice dated 21.03.2017 by the Chief Officer, Municipal Council, Majalgaon, directing him to remove the purported encroachment (concrete wall), failing which, the Municipal Council was to demolish the wall by the use of the JCB under police protection. Respondent No.6 approached this Court in Writ Petition No.4493/2017. When this Court declined to interfere, respondent No.6 withdrew the petition, which is recorded in the order dated 13.07.2017. Consequently, the petitioner, who is the original complainant and who had preferred Writ Petition No.4413/2016 seeking action against respondent No.6, also withdrew the petition and this Court allowed him to withdraw Rs.20,000/- that he had deposited in this Court, vide the order dated 13.07.2017.

4. It is informed that respondent No.6/Rameshwar has now preferred RCS No.357/2017, which is pending before the learned Civil Judge, Senior Division, Majalgaon. The learned AGP submits that the Roznama indicates that respondent No.6 is consistently seeking adjournments.

5. Since the civil suit is already pending, we are not

inclined to entertain this petition.

6. The learned advocate for the petitioner submits, on instructions, that the petitioner desires to file an application for intervention in RCS No.357/2017 since he is the original complainant, who has exposed the illegal construction of respondent No.6.

7. In view of the above, this Writ Petition is disposed off.

8. If the petitioner prefers such intervention application, the Trial Court would consider the same on its merits.

9. The learned Trial Court shall make an endeavour to decide RCS No.357/2017 as expeditiously as possible and preferably on or before 31.12.2023.

kps (SANJAY A. DESHMUKH, J.) (RAVINDRA V. GHUGE, J.)