

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

WRIT PETITION NO. 4268 OF 2021

Shri. Hasmukh Ratanshi Thakkar
V/S

....PETITIONER

Bhiwandi Nizampur City Municipal
Corporation & Ors

...RESPONDENTS

Mr. Prathamesh Bhargude for the Petitioner.
Mrs. Preeti Gada for the Respondent.
Mr. Dilip Bodake for the Respondent.

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

**DATED : 8th FEBRUARY, 2022
(Through VC)**

P.C.:

It is an admitted position that in the suit filed by some of the Respondents, status quo order has been passed and the Petitioner's Application to be impleaded as party Respondent in the suit has been allowed.

2. In view of the above, it is always open for the Petitioner to raise all issues in the suit including the issue of maintainability of the suit by making appropriate Application before the Civil Court, if necessary.

3. The alleged illegal construction is on the Petitioner's own

land. When a substantive suit is pending and the status quo order has been passed, in the suit, it would not be appropriate for this Court to exercise the extraordinary writ jurisdiction of this Court and entertain the Petition. The Petition is accordingly dismissed.

4. In the event, the Petitioner is successful in getting the order of status quo vacated, it would be open for the Petitioner to make a representation to the Respondent-Corporation if no action is taken by the Respondent-Corporation. In such event, it is expected of the Respondent-Corporation to take appropriate action in accordance with law including the demolition of the offending construction.

(ABHAY AHUJA, J.)

(A. A. SAYED, J.)