



Nos.52, 57 and 62, Hissa Nos.2A, 2 and 6 in village Diva, Taluka Thane, District Thane. The Petitioners had filed Suit No.764 of 2021 in the Court of Civil Judge, Thane to restrain the Municipal Corporation from demolishing the structure belonging to the Petitioners standing on the subject property.

4. The learned counsel for the Petitioners informs that during the pendency of the Suit the structure was demolished and the Suit has become infructuous and is also withdrawn after filing of the Petition. The learned counsel for the Petitioners states that the grievance now remained is as regards the part of the property utilized by the Municipal Corporation without paying compensation.

5. According to the Respondent-Corporation there is no such taking over of the property of the Petitioners and road widening is permissible in law from the area available to the Municipal Corporation. The fact whether there was taking over or encroachment over the Petitioner's property will have to be determined by carrying out a survey. The District Superintendent of Land Records will carry out necessary survey/measurement with notice to the Petitioners and representative of the Respondent-Corporation as regard the subject matter of this Petition and furnish copies to the Petitioners and the Municipal Corporation about the outcome of the survey/measurement/

report and the report. Thereafter, the parties will have remedies open in the appropriate Court.

6. The survey/measurement to be carried out within a period of four months from today. Cost of the survey be borne by the Petitioners. However, if it is seen from the record that the Petitioner's contention has been correct, 50% of the cost of survey be borne by the Municipal Corporation.

7. The Writ Petition is accordingly disposed of.

(SHARMILA U. DESHMUKH, J.)

(NITIN JAMDAR, J.)