

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8955 OF 2022
WITH
INTERIM APPLICATION NO. 16860 OF 2022

Dhananjay Rajaram Raut ... Petitioner/Applicant
V/s.
The State of Maharashtra & Ors. ... Respondents.

Mr.Kishor Patil a/w Mr.Sameer Mhatre, Mr. Amol P. Mhatre, for the
Petitioners/Applicants.
Ms.Ravi P Kadam, AGP for Respondent Nos.1&5.
Ms.Swani Sagvekar, for Respondent Nos.1to4, Corporation.

CORAM : R.D. DHANUKA AND
KAMAL KHATA, JJ.

DATE : 28 JULY 2022.

P.C. :

The Applicant seeks relief against the Respondent Corporation for restraining them from taking coercive steps against the Petitioner and the structure viz. the compound wall on the lands of the Petitioner. The learned Counsel for the Petitioner states that the entire wall has been demolished by the Corporation except the foundation of the wall.

2. It is common ground between the Petitioner and the Municipal Corporation that the entire wall is demolished. The Writ Petition is filed by the Applicant. The Applicant has placed on record

that he has paid charges to Respondent No.5 for carrying out measurement of his lands. Since the Municipal Corporation has already demolished the entire wall, nothing survives in the interim application.

3. Insofar as the issue of measurement is concerned, the Petitioners has already paid the charges for measurement. We direct superintendent of Land Records being the concerned authority, as the case may be, to carry out measurement of the wall of Petitioner within 3 weeks from today and shall submit the measurement sheet to the Petitioners and also to the respondent Nos.1 to 4 within one week from the date of carrying out measurement. Learned counsel for the Petitioner undertakes not to carry out any construction on the site without prior sanction of the Respondent Nos.1 to 4. The Municipal Corporation shall not demolish foundation. In view of the dispute between Petitioners and the respondent Nos.1 to 4 whether foundation of the compound wall in question exists or not as on date, we direct the respondent Nos.1 to 4 to visit the site and find out whether any such foundation is left or not after the said demolition of the compound wall was carried out by respondent Nos.1 to 4. If any foundation is left of the demolished wall, the Respondent No.1 to 4 shall not demolish such foundation till measurement of the entire plot is taken by respondent No.5. If it is found by the corporation that the foundation of the wall is also illegal, Corporation shall take appropriate steps for removal of the foundation of wall in accordance with law. Writ petition is disposed of in aforesaid terms.

[KAMAL KHATA, J]

[R.D. DHANUKA, J]