

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

WRIT PETITION NO. 2842 OF 2022

Nalini Ankush Jadhav

... Petitioner

Versus

The Chief Officer,
Planning Authority,
Baramati Municipal Council & Ors.

... Respondents

.....

Mr. Sushant S. Prabhune for the Petitioner.
Mr. S.R. Nargolkar for the Respondent No.1.
Mr. Rupesh Bohade for the Respondent No.3.
Ms. M.S. Bane, AGP for the State.

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**CORAM : NITIN JAMDAR AND
SHARMILA U. DESHMUKH, JJ.**

DATE : 10 OCTOBER 2022

P.C. :

Heard the learned Counsel for the parties.

2. The dispute that is sought to be brought before us by the Petitioner is in respect of a construction carried out in the building called Geetai Building constructed on Land City Survey No. 933/B-1, Baramati.

3. The Petitioner and Respondent Nos. 2 to 7 are residing in the same building. According to the Petitioner, there are certain illegalities in the construction which the Petitioner has brought to

the notice of the Respondent No.1- Planning Authority. However, the Respondent No.1/ Planning Authority is not taking any action. The learned Counsel for the Respondent No.1- Planning Authority states that without going into the merits of the rival contentions, as a Planning Authority whenever a complaint is brought about unauthorized construction, under the law will have to look into the complaint and if it is found to be correct, take action after following the necessary procedure. It is submitted that, however, in view of a pending civil suit between the parties bearing No. 66 of 2021 in the Court of Civil Judge, Junior Division, Baramati and in light of an interim injunction dated 26 February 2021, the Respondent No.1- Planning Authority is not able to proceed further being a party Defendant.

4. According to the Petitioner, this interim injunction cannot detain the Planning Authority to examine the issue. While, according to the Respondent Nos. 2 to 7, in view of the order of injunction, the Respondent No.1- Planning Authority cannot proceed.

5. Appropriate course of action would be to leave the Petitioner to seek necessary clarification in the pending suit in respect of the order dated 26 February 2021 as to whether it binds and restrains the Respondent No.-1- Planning Authority from proceeding further. Depending on the clarification, the Planning Authority can take necessary steps.

6. In light of this position, it is not necessary for us to keep the petition pending. Since a complaint of unauthorized construction is sought to be brought before the Planning Authority, it is open to the Respondent No.1- Planning Authority to examine the legality of construction and the portion in which the Petitioner is also in occupation.

7. The writ petition is accordingly disposed of.

8. We make it clear that we have not commented upon merits of the complaint of the Petitioner and the application, the Petitioner may file in the Court, is a matter for the Planning Authority and the concerned Court to consider and decide.

(SHARMILA U. DESHMUKH, J.)

(NITIN JAMDAR, J.)

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