

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

WRIT PETITION NO.4199 OF 2022

**PRIYA
RAJESH
SOPARKAR**

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PRIYA RAJESH
SOPARKAR

Date: 2022.04.18
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Naseer Fakir Mohd. Shaikh

... Petitioner

V/s.

The State of Maharashtra and ors.

... Respondents

Mr.Abhineet N. Pange, Advocate for the Petitioner.

Ms.M.P.Thakur, AGP for the State.

**CORAM : S. V. GANGAPURWALA AND
VINAY JOSHI, JJ.**

DATE : 13th APRIL, 2022.

P.C.:-

1. We have heard the learned counsel for the Petitioner.
2. The learned counsel submits that the unauthorized construction was carried out by the neighbour. Because of the unauthorized construction, the easementary rights of the Petitioner are affected. Even the Block Development Officer has given report to the Village Development Officer and the Sarpanch that there is no record to show the manner in which the construction has been carried out and the construction is unauthorized.
3. We have heard the learned AGP also.
4. The Petitioner is seeking easementary rights. The construction alleged is on the private property. The dispute is amongst private parties. The Petitioner will have to first seek a declaration of the

easementary rights. The jurisdiction in such cases vests with the Civil Court.

5. In the light of the above, the Petitioner may avail the remedy as may be permissible before the appropriate court. In that event, all contentions are kept open.

6. Writ Petition is disposed of. No costs.

(VINAY JOSHI, J.)

(S.V.GANGAPURWALA, J.)

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