

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4869 OF 2023

Rajesh Prataprai Khanwani & Anr.

... Petitioners

Versus

State of Maharashtra, through its Urban
Development Dept. & Ors.

... Respondents

Mr. Monish Bhatia a/w. Ms. Vaibhavi Parchake for the petitioners.

Mr. A.A. Alaspurkar, AGP for respondent no. 1/State.

Mr. Vijay Patil for respondent nos. 2 to 4.

Ms. Minal Chananani for the intervenor.

CORAM: G. S. KULKARNI
 & R.N. LADDHA, JJ.
DATED: 6 April, 2023

P.C.

1. Not on board. Upon mentioning, taken on board on a praecipe as moved on behalf of the petitioners.

2. We are not inclined to entertain this Writ Petition, as the petitioners have already taken recourse to a Civil Suit, being Special Civil Suit No. 184 of 2021 filed before the Court of Joint Civil Judge, Senior Division, Kalyan. If the petitioners have any fresh ground, they are always at liberty to move an appropriate application in said suit or any other proceedings arising from the said suit.

3. The only apprehension of the petitioners is that the demolition action may be taken by the respondent-Corporation till the petitioners move an appropriate application on such fresh material. We, accordingly, direct the Municipal Corporation not to take any coercive action for a period of ten days this is merely to enable the petitioners to move the appropriate Court in the pending proceedings.

4. We clarify that if no orders are obtained in the proceedings pending before the Civil Court on any such application the petitioners propose to move, there shall not be any further extension of the protection granted by this order. We make it clear that while granting such protection, we have not examined the merits of the rival contentions. The Civil Court shall decide the proceedings on its own merits. All contentions of the parties in the pending proceedings are kept open.

5. Mr. Patil, learned counsel for respondent nos. 2 to 4 shall immediately inform the concerned of the order of this Court orally.

6. Disposed of in the above terms. No costs.

(R.N. LADDHA, J.)

(G. S. KULKARNI, J.)