

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.12833 OF 2022

Krishna Balu Thakur

...Petitioner

Versus

Bhiwandi Nijampur Municipal Corporation,
Through Commissioner & Ors.

...Respondents

Mr. Kishor Patil i/by Mr. Pratik B. Rahade for Petitioner.
Mr. Gautam Jain a/w Mr. M. J. Bhatt for Respondent Nos.1 and 2.
Ms. M. P. Thakur, AGP for Respondent Nos.3 and 4.

CORAM : SUNIL B. SHUKRE,
JITENDRA JAIN, J.J.

DATE : 16th JUNE, 2023.

P. C. :

1. Heard. It is seen that the Petitioner has already filed Civil Suit bearing R.C.S. No.334 of 2022 for injunction restraining the Corporation and its offices from disturbing peaceful possession of the Petitioner. There is also an order passed by the Civil Court below Exhibit-5, thereby rejecting the application of the Petitioner filed for grant of temporary injunction. Of course that order pertains to notice issued by the Corporation under Section 260 of the Maharashtra Municipal Corporation Act, 1949 and here the Petitioner is seeking quashing and setting aside of the order dated 28th June 2022 regarding

demolition of the unauthorized structures. Even then, we are of the view that the Petitioner can seek remedy before the Civil Court in a pending Civil Suit as the issue arising from notice issued for demolition of the structures under Sections 52 to 55 of the Maharashtra Regional and Town Planning Act, 1966 (for short “MRTP Act”) can be appropriately considered by the Civil Court, subject to various provisions made in the MRTP Act. Therefore, relegating the Petitioner to the alternate remedy available to them, we dispose of the Petition.

[JITENDRA JAIN, J.]

[SUNIL B. SHUKRE, J.]