



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

917 WRIT PETITION NO. 1554 OF 2024

SUSHIL DAMODAR IRALE PATIL AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

...

Mr. D. R. Irale Patil, Advocate for the Petitioners

Mr. V. M. Kagne, AGP for the Respondents 1 & 2/State

Mr. P. L. Adhane h/for Mr. S. P. Urgunde, Advocate for Respondent No.3

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 10th September, 2024

ORDER:

1. This matter was heard for some time.
2. The learned Advocate for the Petitioners contends as under:-
 - (a) A decree in RCS No. 76 of 2015 was delivered in his favour when the suit was partly allowed.
 - (b) The appeal preferred by the Corporation has been dismissed.
 - (c) No second appeal has been filed.
 - (d) The Petitioner's commercial structure, which was standing on the Writ plot, has been demolished by the Corporation. The damage caused by such demolition will have to be assessed. The cost incurred by the Petitioner for construction of the Commercial establishment, will have to be assessed. The responsibility will have to be fixed on such officers of the Corporation who have

demolished the construction. The magnitude of the construction and the area of demolition will have to be assessed.

3. The learned AGP submits that one more aspect needs to be added to the above issues and that is, whether the Petitioners' construction amounted to an encroachment and whether the Petitioners had entered into a valid lease agreement with the Corporation.

4. In view of the above, the learned Advocate for the Petitioners submits on instructions that the Petitioners would prefer a civil suit for seeking adjudication on all the above issues. With this liberty, the Petitioners desire to withdraw this Petition.

5. In view of the above, **this Writ Petition is disposed off** as withdrawn on instructions.

6. The disposal of this Petition would not be an impediment for the Petitioners and all contentions are kept open.

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)

JPChavan