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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 6839 OF 2024

Ella Pereira through her POA holder Russel ...Petitioner
Carlyle Dias
Versus
Municipal Corporation of Greater Mumbai & Ors ...Respondents

Mr Shravan K Giri, *for the Petitioner.*
Mr Om Suryavanshi, *for the Respondent-MCGM.*
Mr Jagdish Jayale, *for Respondent No. 6.*

CORAM M.S. Sonak &
Kamal Khata, JJ.
DATED: 25th July 2024

PC:-

1. Heard learned counsel for the parties.
2. The Petitioner complains about the inaction of Brihanmumbai Municipal Corporation (“BMC”) in taking action against Respondents Nos. 4 to 7 for alleged illegal constructions carried out by them.
3. Learned counsel for the BMC points out that BMC has already initiated action and the BMC notices are also annexed to the Petition. He further points out that Respondent No. 6 have

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instituted LC Suit No. 167 of 2024 before the City Civil Court at Dindoshi and has obtained a status quo order on 20/01/2024. Learned counsel for the BMC pointed out that the Petitioner challenges this order dated 20/01/2024 by instituting this Petition, instead of instituting an Appeal against order which could be the correct remedy.

4. Learned counsel for the 6th Respondent points out that the Petitioner has already applied for impleadment in LC Suit No. 167 of 2024. On instructions, he states that the 6th Respondent will have no objections to such impleadment. This statement is recorded. Based on this statement the learned city Civil Court at Dindoshi must allow the Petitioner to implead as a Respondent in this said suit.

5. Since the BMC has initiated action but is unable to act further on account of some restraint orders made by the Civil Court, we do not think that at least at present any case is made out to issue a mandamus to the BMC or accept the Petitioner's case that the BMC is not acting in the matter. Thus, leaving it open to the Petitioner to pursue remedies before the Civil Court or any of the appropriate Court, we decline to entertain this Petition. All contentions of all parties are however left open.

(Kamal Khata, J)

(M.S. Sonak, J)