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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
WRIT PETITION NO. 443 OF 2023

Star Construction

...Petitioner

Versus

The Municipal Corporation of Greater Mumbai
& Ors

...Respondents

Mr Yashodeep Deshmukh, i/b Gurubala Birajdar, for the Petitioner.
Mr Atul Damle, Senior Advocate, with Suresh M Sabrad, Santosh
Suryarao, Amey Sawant, Gracy Saldana & Pratik Sabrad,
for Respondents Nos 4 & 5.

CORAM G.S. Patel &
Kamal Khata, JJ.

DATED: 1st April 2024

PC:-

1. There is a dispute between the Petitioner and the 4th and 5th Respondents. They all claim to have a share in the property in question. The Petitioner now seeks implementation of an order dated 5th August 2021 in a previous Writ Petition No 3144 of 2017, a copy of which is at Exhibit 'A' to the Petition. That order only directed that the representation of the Petitioner be decided in accordance with law.

2. But the main purpose of this Petition is prayer clause 'b' which seeks a direction against the Municipal Authority to demolish what the Petitioner describes as the unauthorised construction carried out by the Petitioner's co-owners, the 4th and 5th Respondents.

3. There is a Civil Suit pending between the parties and Mr Damle for the 4th and 5th Respondents says this identical relief is sought in that Petition. Page 125 of the Affidavit in Reply has this relief.

4. The Brihanmumbai Municipal Corporation is also a party to that LC Suit No 1544 of 2012 pending in the City Civil Court at Dindoshi.

5. We decline to entertain this Petition in our writ jurisdiction. The suit between the parties will continue on merits. We clarify that we have not addressed the merits of the matter. All contentions are expressly kept open for the suit.

6. The Petition is rejected. No costs.

(Kamal Khata, J)

(G. S. Patel, J)