



Darshan Patil

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**WRIT PETITION NO. 5816 OF 2023**

1. **SANDEEP VILAS RANADE,**  
Age – 49 Years, Occ. Business
2. **VILAS YASHWANT RANADE,**  
Adult, Occ. Business

**... PETITIONERS**

**~ VERSUS ~**

1. **PUNE MUNICIPAL  
CORPORATION,**  
Shivajinagar, Pune 411005  
  
[Summons to be served on the  
Municipal Commissioner, Pune  
Municipal Corporation, Shivajinagar,  
Pune 411005]
2. **MUNICIPAL COMMISSIONER,**  
Pune Municipal Corporation  
Shivajinagar, Pune 411005
3. **STATE OF MAHARASHTRA,**  
  
[Summons to be served on the Govt.  
Pleader]

**... RESPONDENTS**

**ALONG WITH**  
**WRIT PETITION NO. 5477 OF 2023**

**BALASAHEB BABANRAO BARATE,**  
Age: 52 years Occupation: Business  
Having His Address At:  
Plot No. 187, Opp. Vanadevi Mandar,  
Karvenagar, Pune 411052

**... PETITIONER**

**~ VERSUS ~**

- 1. THE STATE OF MAHARASHTRA,**  
Through Its Urban Development  
Department  
Having Its Office At:  
Mantralaya, Madame Cama Road,  
Nariman Point, Mumbai 400001,  
Maharashtra

[Summons to be served on the Learned  
Government Pleader appearing for  
State of Maharashtra under Order  
XXVII Rule 4 of the Code of Civil  
Procedure, 1908]

- 2. THE PUNE MUNICIPAL  
CORPORATION,**  
Through Its Municipal Commissioner  
Having Its Office At:  
Pmc Building, Shivaji Nagar, Pune  
411004, Maharashtra

[Summons to be served on the Learned  
Advocate appearing for Pune Municipal  
Corporation]

**... RESPONDENTS**

**ALONG WITH**  
**WRIT PETITION NO. 5479 OF 2023**

**CHETAN SHRIDHAR BARATE,**  
Age: 47 years Occupation: Business  
Address: Shrikant Bungalow, Opp.  
Municipal Corporation School, Beside  
Kakade, Palace, Karvenagar, Pune  
411052

**... PETITIONER**

**~ VERSUS ~**

- 1. THE STATE OF MAHARASHTRA,**  
Through Its Urban Development  
Department  
Having Its Office At:  
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- 2. THE PUNE MUNICIPAL  
CORPORATION,**  
Through Its Municipal Commissioner  
Having Its Office At:  
Pmc Building, Shivaji Nagar, Pune  
411004, Maharashtra

[Summons to be served on the Learned  
Advocate appearing for Pune Municipal  
Corporation]

**... RESPONDENTS**

**ALONG WITH**  
**WRIT PETITION NO. 5478 OF 2023**

**BHARGAV SAKHARAM  
KARANDIKAR,**  
Adult, 76 Occ. Business  
R/at : 110, Natraj Society, Pratiksha  
Mangal Karyalaya, Opp. Palkar School,  
Karvenagar, Pune 411052

**... PETITIONER**

**~ VERSUS ~**

- 1. THE STATE OF MAHARASHTRA,**  
Through Its Urban Development  
Department  
Having Its Office At:  
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- 2. THE PUNE MUNICIPAL  
CORPORATION,**  
Through Its Municipal Commissioner  
Having Its Office At:  
Pmc Building, Shivaji Nagar, Pune  
411004, Maharashtra

[Summons to be served on the Learned  
Advocate appearing for Pune Municipal  
Corporation]

**... RESPONDENTS**

**ALONG WITH  
WRIT PETITION NO. 5483 OF 2023**

**KAPIL RAJENDRA FENGSE,**  
Adult, Age 40 Yrs. Occ. Garage,  
R/at- Sahyadri Bunglow, Shahu Colony,  
Lane no 3, Karve Nagar, Pune 411052

**... PETITIONER**

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- 1. THE STATE OF MAHARASHTRA,**  
Through Its Urban Development  
Department  
Having Its Office At:  
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CORPORATION,**  
Through Its Municipal Commissioner  
Having Its Office At:  
Pmc Building, Shivaji Nagar, Pune  
411004, Maharashtra

[Summons to be served on the Learned  
Advocate appearing for Pune Municipal  
Corporation]

**... RESPONDENTS**

**ALONG WITH**  
**INTERIM APPLICATION NO. 80 OF 2024**  
**IN**

**WRIT PETITION NO. 5483 OF 2023**

**THE PUNE MUNICIPAL  
CORPORATION,**  
Through Its Municipal Commissioner  
Having Its Office At: P.M.C. Building,  
Shivaji Nagar, Pune 411004,  
Maharashtra

**... APPLICANT**

**~ IN THE MATTER BETWEEN ~**

**KAPIL RAJENDRA FENGSE,**  
Adult, Age 40 Yrs. Occ. Garage,  
R/at- Sahyadri Bunglow, Shahu Colony,  
Lane no 3, Karve Nagar, Pune 411052

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- 1. THE STATE OF MAHARASHTRA,**  
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- 2. THE PUNE MUNICIPAL  
CORPORATION,**  
Through Its Municipal Commissioner  
Having Its Office At:  
Pmc Building, Shivaji Nagar, Pune  
411004, Maharashtra

**... RESPONDENTS**

**ALONG WITH**

**WRIT PETITION NO. 5482 OF 2023**

**GULAB TULSHIRAM DUDHANE,**  
Adult, Occ. Business  
R/at: Goldent Petals Society,  
Dudhanenagar, Karvenagar, Pune  
411052

**... PETITIONER**

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- 1. THE STATE OF MAHARASHTRA,**  
Through Its Urban Development  
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CORPORATION,**  
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Pmc Building, Shivaji Nagar, Pune  
411004, Maharashtra

[Summons to be served on the Learned  
Advocate appearing for Pune Municipal  
Corporation]

**... RESPONDENTS**

**ALONG WITH**  
**INTERIM APPLICATION NO. 83 OF 2024**

IN

**WRIT PETITION NO. 5482 OF 2023**

**THE PUNE MUNICIPAL  
CORPORATION,**  
Through Its Municipal Commissioner  
Having Its Office At: P.M.C. Building,  
Shivaji Nagar, Pune 411004,  
Maharashtra

**... APPLICANT**

**~ IN THE MATTER BETWEEN ~**

**GULAB TULSHIRAM DUDHANE,**  
Adult, Occ. Business  
R/at: Goldent Petals Society,  
Dudhanenagar, Karvenagar, Pune  
411052

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- 2. THE PUNE MUNICIPAL  
CORPORATION,**  
Through Its Municipal Commissioner  
Having Its Office At:  
Pmc Building, Shivaji Nagar, Pune  
411004, Maharashtra

**... RESPONDENTS**

**ALONG WITH**



**WRIT PETITION NO. 5481 OF 2023**

**DINESH BALWANT BARATE,**  
Adult, Age 47 Yrs. Occ. Business,  
R/at- Pancham Nivas, P.No. 113, Opp.  
Municipal Corp. School, Karve Nagar,  
Pune 411052

**... PETITIONER**

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411004, Maharashtra

[Summons to be served on the Learned  
Advocate appearing for Pune Municipal  
Corporation]

**... RESPONDENTS**

**ALONG WITH**

**WRIT PETITION NO. 5480 OF 2023**

**DEEPAK VITTHAL SHEWALE,**  
Adult, Age 53 Yrs. Occ. Agriculture,  
R/at- Shahu Colony, Lane No. 4, Karve  
Nagar, Pune 411052

**... PETITIONER**

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- 1. THE STATE OF MAHARASHTRA,**  
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411004, Maharashtra

[Summons to be served on the Learned  
Advocate appearing for Pune Municipal  
Corporation]

**... RESPONDENTS**

**ALONG WITH**

**WRIT PETITION NO. 5506 OF 2023**

**TEJASHREE AMOD GHAMANDE,**  
Adult, Age 50 Yrs. Occ. Business  
R/at: Shubham', Plot No. 3 Vishakha  
Society, Karve Nagar, Pune 411052

**... PETITIONER**

**~ VERSUS ~**

- 1. THE STATE OF MAHARASHTRA,**  
Through Its Urban Development  
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CORPORATION,**  
Through Its Municipal Commissioner  
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Pmc Building, Shivaji Nagar, Pune  
411004, Maharashtra

[Summons to be served on the Learned  
Advocate appearing for Pune Municipal  
Corporation]

**... RESPONDENTS**

**ALONG WITH**  
**INTERIM APPLICATION NO. 86 OF 2024**  
**IN**

**WRIT PETITION NO. 5506 OF 2023**

**THE PUNE MUNICIPAL  
CORPORATION,**  
Through Its Municipal Commissioner  
Having Its Office At: P.M.C. Building,  
Shivaji Nagar, Pune 411004,  
Maharashtra

**... APPLICANT**

**~ IN THE MATTER BETWEEN ~**

**TEJASHREE AMOD GHAMANDE,**  
Adult, Age 50 Yrs. Occ. Business  
R/at: Shubham', Plot No. 3 Vishakha  
Society, Karve Nagar, Pune 411052

**... PETITIONER**

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- 1. THE STATE OF MAHARASHTRA,**  
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CORPORATION,**  
Through Its Municipal Commissioner  
Having Its Office At:  
Pmc Building, Shivaji Nagar, Pune  
411004, Maharashtra

**... RESPONDENTS**

**ALONG WITH**

**WRIT PETITION NO. 5485 OF 2023**

**VIRENDRA SHIVAJI CHILLAL,**  
Adult, Age 53 Yrs. Occ. Garage,  
R/at- A-18, Govind Apartments,  
Sinhagad Road, Near Prathamesh  
Nagari, Anand Nagar, Pune 411051

**... PETITIONER**

**~ VERSUS ~**

- 1. THE STATE OF MAHARASHTRA,**  
Through Its Urban Development  
Department  
Having Its Office At:  
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411004, Maharashtra

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Advocate appearing for Pune Municipal  
Corporation]

**... RESPONDENTS**

**ALONG WITH**  
**INTERIM APPLICATION NO. 82 OF 2024**

IN

**WRIT PETITION NO. 5485 OF 2023**

**THE PUNE MUNICIPAL  
CORPORATION,**  
Through Its Municipal Commissioner  
Having Its Office At: P.M.C. Building,  
Shivaji Nagar, Pune 411004,  
Maharashtra

**... APPLICANT**

**~ IN THE MATTER BETWEEN ~**

**VIRENDRA SHIVAJI CHILLAL,**  
Age 53 Yrs. Occ. Garage,  
R/at- A-18, Govind Apartments,  
Sinhagad Road, Near Prathamesh  
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Having Its Office At:  
Pmc Building, Shivaji Nagar, Pune  
411004, Maharashtra

**... RESPONDENTS**

**ALONG WITH**

**WRIT PETITION NO. 5486 OF 2023**

**YASHODHAN RAMDAS BARATE,**  
Age : 33 Yrs. Occ. Agriculture,  
R/at : Karvenagar Vadacha Stop, Opp.  
Municipal Corporation School, Pune  
411052

**... PETITIONER**

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Through Its Urban Development  
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Pmc Building, Shivaji Nagar, Pune  
411004, Maharashtra

[Summons to be served on the Learned  
Advocate appearing for Pune Municipal  
Corporation]

**... RESPONDENTS**

**ALONG WITH**

**WRIT PETITION NO. 5484 OF 2023**

**SURYAKANT YADAVRAO  
HALLALE,**  
Adult, Age 51 Yrs. Occ. Business,  
R/at- S. No. 7/5, Ashtavinayak Colony,  
House No. 10, Lane no. 3, Karve Nagar,  
Pune 411052

**... PETITIONER**

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- 1. THE STATE OF MAHARASHTRA,**  
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Having Its Office At:  
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CORPORATION,**  
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Pmc Building, Shivaji Nagar, Pune  
411004, Maharashtra

[Summons to be served on the Learned  
Advocate appearing for Pune Municipal  
Corporation]

**... RESPONDENTS**



**ALONG WITH**  
**INTERIM APPLICATION NO. 84 OF 2024**  
**IN**  
**WRIT PETITION NO. 5484 OF 2023**

**THE PUNE MUNICIPAL  
CORPORATION,**

Through Its Municipal Commissioner  
Having Its Office At: P.M.C. Building,  
Shivaji Nagar, Pune 411004,  
Maharashtra

**... APPLICANT**

**~ IN THE MATTER BETWEEN ~**

**SURYAKANT YADAVRAO  
HALLALE,**

Age 51 Yrs. Occ. Business,  
R/at- S. No. 7/5, Ashtavinayak Colony,  
House No. 10, Lane no. 3, Karve Nagar,  
Pune 411052

**... PETITIONER**

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CORPORATION,**  
Through Its Municipal Commissioner  
Having Its Office At:  
Pmc Building, Shivaji Nagar, Pune

411004, Maharashtra

... RESPONDENTS

**ALONG WITH**  
**WRIT PETITION NO. 5826 OF 2023**

**PRIYANKA PRAFUL**  
**PRABHUDESAI,**  
Adult, Age 61 Yrs. Occ. Business,  
R/at- Block No. 16, S. No. 147, Saloni,  
Rangali Society, Karve Road, Opp.  
Karve Statue, Kothrud, Pune 411038

... PETITIONER

~ VERSUS ~

- 1. THE STATE OF MAHARASHTRA,**  
Through Its Urban Development  
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[Summons to be served on the Learned

## ... RESPONDENTS

3. Mr Anturkar learned senior advocate argued these matters along with Mr Ajinkya Udane on behalf of the petitioners in all these petitions. Mr R.M. Pethe argued these matters on behalf of the Pune Municipal Corporation (“**PMC**”) in all these petitions.

4. Mr Anturkar requested that Writ Petition No. 5816 of 2023 be taken up as the lead petition because the legal issues raised in this petition were common to the remaining petitions in this batch. He submitted that there could be some minor differences in the fact position in each of these petitions. If necessary, he would make submissions on such factual aspects separately in each of the petitions. Mr Pethe learned counsel for the PMC, handed in a chart showing the factual differences in each of these petitions.

5. The petitioners had constructed structures in the green belt zone on the banks of the river Mutha in Pune. Barring one of the structures that was used for residential purposes, the rest of the structures were used for commercial purposes like marriage halls, wedding venues, storehouses, restaurants, garages, etc. The petitioners put up these structures and exploited them commercially without obtaining any permission from any of the planning or municipal authorities in utter defiance of the law. In doing so, the petitioners paid little heed to the fact that they had brazenly constructed such illegal structures in a green belt zone and a river protection belt, which was an eco-sensitive area crying for protection from such violations. Since no permissions were applied and obtained, the petitioners did not comply with any municipal or planning regulations. All this was done with impunity because the petitioners were aware that no permissions could be legitimately obtained to construct such structures in this critical zone. The

petitioners relied upon the usual apathy of the municipal and planning authorities to initiate immediate action and perhaps protection of the powers that be to see that no action is initiated.

6. After some vigilant citizens lodged complaints and proceedings, the PMC issued notices for the removal of all these illegal structures put up by the petitioners. Before such notices were issued, the petitioners were given the opportunity to show cause, lest the petitioners complain of the violation of the principles of natural justice. Due legal procedures were followed. Based upon the final demolition notices, most of the structures were removed by the PMC in strict accordance with the law. Undeterred, most of the petitioners, with impunity, reconstructed the structures and recommenced exploiting them commercially, again without bothering to obtain any permissions or abiding by the rules and regulations.

7. Once again, the PMC, following all legal procedures and complying with the principles of natural justice, has issued the impugned notices under Sections 53 and 54 of the Maharashtra Regional and Town Planning Act, 1966 (“**MRTPA Act**”) for the demolition of the structures reconstructed by the petitioners in the green belt zone on the banks of the river Mutha in Pune.

8. Therefore, the petitioners have instituted these petitions to challenge the same or rather urge that the petitioners have an indefeasible right to apply for regularisation. The petitioners insist that until they apply (by citing some imaginary difficulty, none of the petitioners have even bothered to apply for regularisation) and during the period when such applications (as and when made) are

under consideration, the impugned demolition/removal notices should not be acted upon.

9. Some of the petitioners managed to obtain interim reliefs by suppressing the material facts about the earlier demolitions and the brazen reconstructions without obtaining any permissions from any authorities in a zone that did not even permit these types of constructions. The lead petitioner instituted the petition several months after the demolition of his marriage hall. Without any interim relief and without bothering to obtain any permissions from any authorities, the lead petitioner reconstructed the marriage hall after the institution of the petition.

10. In all these petitions, despite the gross facts establishing how most of the petitioners have, with impunity, rebuilt illegal structures that were earlier demolished after following all legal procedures, the petitioners invoke the extraordinary, equitable, and discretionary jurisdiction of this Court and insist on applying the law as they (or their lawyers) choose to interpret it to protect these patently illegal structures.

11. The petitioners' interpretation or understanding of the legal position is that it is perfectly alright to construct or reconstruct illegally and brazenly in a green belt zone or a river protection zone. If and when such illegalities are discovered, and demolitions are ordered, the petitioners have some indefeasible right to apply for regularisation. Furthermore, until such regularisation applications are decided, there should be no demolitions of the brazenly illegal structures through which the petitioners undertake commercial activities.

12. Here, the petitioners have not even applied for regularisation, citing some difficulties and ambiguities in the applicable DCR and claiming that some clarification is pending with the State Government. Therefore, now the insistence is that we should direct the State to clarify or await amendment of the rules and regulations. Once all this is done, we should grant the petitioners some time to apply for regularisation. Pending consideration of such regularisation applications, if and when made by the petitioners, we must protect the brazenly illegal structures constructed or reconstructed by the petitioners so that they can continue to exploit them commercially during all this time. This was the main thrust of the oral and written submissions on behalf of the petitioners.

13. In the lead petition, Mr Anturkar initially argued that petitioners had reconstructed a marriage hall after the PMC demolished it, based upon a deemed permission under Sections 44 and 45 of the Maharashtra Municipal Corporation Act, 1949. However, later on, this point was not pressed, and arguments were advanced on the premise that such reconstruction may not have been authorised.

14. Mr Anturkar contended that on a conjoint reading of the provisions of Sections 52 and 53 of the MRTP Act, the petitioners who may have put up constructions without prior building permissions from the authorities have a statutory right to seek retention or regularisation of such structures, provided of course, such structures otherwise comply with the rules and regulations governing the putting up of such structures/ constructions.

15. Mr Anturkar submitted that statutory provisions in Sections 52 and 53 of the MRTP Act that permit the making of requests for retention or regularisation constitute an exception to the general rule that no buildings/ structures/ constructions can be put up without prior permissions from the authorities prescribed.

16. Mr Anturkar submitted that the right to seek retention or regularisation under Section 53(3) of the MRTP Act would be available on receipt of notice under Section 52(1)(a) and 52(1)(c). He submitted that such right to seek retention or regularisation can not be restricted only to a case where notices have been issued under Sections 52(1)(b) or 52(1)(d) of the MRTP Act. He submitted that such an interpretation would do violence to the statutory scheme in Sections 52 and 53 of the MRTP Act.

17. Mr Anturkar submitted that the decision of the coordinate Division Bench in *Suo Motu Writ Petition No. 2 of 2023* ought to be confined to the peculiar facts obtained therein. He submitted that in the said *Suo Motu Writ Petition*, the party involved had put up construction on CIDCO land by brazenly encroaching upon it. Further, such construction was done without obtaining any single permission under any law to develop the property to any degree.

18. Mr Anturkar submitted that it was in the backdrop of such gross facts that the coordinate division bench held that no application for regularisation/ retention would be maintainable with respect to such construction. Mr Anturkar submitted that in all these petitions, the petitioners have put up construction on their own property and not by encroaching upon public property.



Therefore, the ruling or the observations in Suo Motu Writ Petition No. 2 of 2023 would not apply.

19. Mr Anturkar submitted that for the observations in the judgment disposing of Suo Motu Writ Petition No. 2 of 2023 to apply, the two circumstances, i.e. the applicant being a land encroacher and the construction having been put up without any permission from any authorities, must not co-exist. He submitted that since at least one of the circumstances did not apply to the petitioners in the present batch of petitions, neither the ratio nor the observations in the judgment disposing of Suo Motu Writ Petition No. 2 of 2023 would apply.

20. Mr Anturkar submitted that all these petitioners propose to apply for retention/ regularisation of the structures put up by them without obtaining prior permission from the authorities. However, he submitted that petitioners are unable to file such applications because there is no clarity about the Floor Space Index (“FSI”) that should be permitted in the green belt zone/ river protection belt. He submitted that the Municipal Commissioner of Pune admitted to this position and that directions/ clarifications were sought from the State Government on this commercial aspect. He submitted that such clarifications have, to date, not been issued by the State Government.

21. Mr Anturkar submitted that the State Government should be directed to clarify the above issue. In any event, a Writ of Mandamus should be issued to declare that the FSI should be allowed in terms of the Development Control Rules, 1987, until the

appropriate amendment is made to the Unified Development Control and Promotion Regulations, 2020 (“UDCPR, 2020”).

22. Mr Anturkar, based on the above, submitted that the State Government be directed to take a decision on the extent of FSI allowable in the green belt zone/ river protection belt. Once clarification is issued, the petitioners must be granted some reasonable time to apply for retention/ regularisation under Section 53(3) of the MRTP Act. He submitted that until this exercise is complete, this Court must restrain respondents from demolishing the structures/ constructions put up by the petitioners in the green belt zone/ river protection belt without obtaining any permission from the authorities.

23. Mr Anturkar, at the conclusion of his arguments, also filed a note summarising his arguments. In the course of the arguments, Mr Anturkar agreed that only such constructions that are otherwise permissible under rules and regulations could qualify for retention and regularisation. In this regard, he submitted that the regulations dealing with green belt zones/ river protection belts permit the setting up of recreational facilities. He submitted that the construction of the marriage hall is a recreational facility, and therefore, the same is allowable under DCR 4.12.1 (at Exhibit “H” of the paper book).

24. For all the above reasons, Mr Anturkar submitted that the rule in each of these petitions must be made absolute.

25. Mr Pethe, learned counsel for the PMC, submitted that the very institution of these petitions constitutes a gross abuse of the

judicial process and, therefore, all these petitions must be dismissed with exemplary costs.

26. In the context of Writ Petition No. 5816 of 2023 (lead petition), Mr Pethe pointed out that the first prayer was to set aside the demolition notice dated 18 April 2022. He submitted that, in pursuance of the notice dated 18 April 2022, the marriage hall unauthorisedly put up by the petitioners was demolished on 20 April 2022.

27. Mr Pethe submitted that the petitioners, after the institution of this petition, have brazenly reconstructed the marriage hall and commenced using it for commercial purposes again without bothering to obtain any permission from the authorities. He submitted that no relief should be granted to such petitioners under Article 226 of the Constitution of India.

28. Mr Pethe submitted that all these petitions are concerned with unauthorised constructions put up in the green belt zone/river protection belt. By referring to the chart he handed out, Mr Pethe submitted that none of the constructions or buildings has any nexus with any of the permissible activities in the green belt zone/river protection belt. He submitted that even the phrase “recreational facilities” has to be construed in the light of other permissible uses in such a zone, and from the context, it is quite clear that the construction of the marriage hall would not amount to a recreational facility as contended on behalf of the some of the petitioners including the petitioners in the lead petition.

29. Mr Pethe submitted that none of the provisions of the MRTTP Act vests any unfettered rights in the applicant to put up wholly unauthorised construction without obtaining permits from any authorities and then to insist upon retention and regularisation of such construction. He submitted that time and again, various Courts have ruled that the benefit of regularisation/ retention must not be extended to those who violated the law with absolute impunity and commercially exploit the properties in green belt zones or river protection belts and other eco-sensitive areas. He submitted that a grant of any indulgence to such petitioners who have no regard whatsoever for the law or the environment would amount to granting a premium to lawbreakers.

30. Mr Pethe submitted that Mr Anturkar's reading and construction of the judgment of the coordinate bench disposing of Suo Motu Writ Petition No. 2 of 2023 was incorrect. He submitted that the Division Bench has held that those who breached the Municipal and Planning laws with impunity and brazenly cannot insist upon the right of retention or regularisation post facto and delay the demolition until their applications for regularisation are disposed of. Mr Pethe submitted that in any event, since none of the construction relates to the uses specified in DCR 4.12, even accepting Mr Anturkar's arguments without prejudice, there is no scope to direct the consideration of the applications for regularisation that the petitioners propose to make in future.

31. Mr Pethe submitted that all these petitions may be dismissed with exemplary costs for all the above reasons.

32. By way of rejoinder, Mr Ajinkya Udane submitted that the petitioners in the lead petition, Writ Petition No. 5816 of 2023, reconstructed the marriage hall after it was demolished on 20th April 2022, some months after the institution of this petition. He first submitted that the petitioners made such reconstruction based on an interim relief granted by this Court staying the demolition.

33. To the Court's query as to by which order the said interim relief was granted, Mr Udane submitted that no specific interim order was granted in Writ Petition No. 5816 of 2023. Still, an interim order was granted in Writ Petition No. 9693 of 2022 on 10th August 2022. He submitted that after Writ Petition No. 5816 of 2023 was tagged with Writ Petition No. 9693 of 2022, the petitioner treated the interim order granted in Writ Petition No. 9693 of 2022 as one granted in Writ Petition No. 5816 of 2023 and, on such basis, reconstructed the marriage hall.

34. The rival contentions now fall for our determination.

35. In Writ Petition No. 5816 of 2023, the petition has sought the following substantive reliefs:

“[A] That this Honorable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order under Article 226 of the Constitution of India, 1950, quashing and setting aside the demolishing notice bearing No. Zone 6/282 dated 18th April 2022 as illegal and bad in law.

[B] That this Honorable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order under Article 226 of the Constitution of India, 1950, holding

that the action of the Respondent herein demolishing the construction of the Petitioner in Survey No.49, Karve nagar, is illegal and bad in law.

[C] That this Honorable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order under Article 226 of the Constitution of India, 1950, and be pleased to hold that the building plan submitted by the Petitioner through the Architect, Shri Siddharth S. Harishchandrakar is deemed to have been sanctioned and therefore, the demolition made by the Municipal Corporation was demolition in respect of the constructions which is deemed to have been sanctioned and therefore the same is illegal and bad in law.

[D] That alternatively this Honorable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order under Article 226 of the Constitution of India, 1950, holding that the Petition would have been entitled to ask for regularization of the construction if a proper notice would have been given and for such regularization the provisions of the DCR 2017, would have been attracted and not the provisions of the UDCPR, 2020.

[E] That alternatively this Honorable Court be pleased to issue a writ mandamus or writ in the nature of mandamus or any other appropriate writ direction and order under Article 226 of the Constitution of India, 1950, holding that until a proper amendment is made in the UDCPR, 2020, as to how much F.S.I. would be allowable in the green belt, the provisions of DCR 17.5 (F.S.I. of Greenbelt) as contained in the DCR 1987, would be continued to apply even after December 2020 in respect of the cases covered by UDCPR, 2020.”

36. So far as the reliefs in terms of the prayer clauses (A) and (B) are concerned, they are entirely misconceived and even mischievous. The record bears out that the demolition notice dated 18th April 2022, issued under Sections 52/53 of the MRTP Act, was after due compliance with all legal procedures. Therefore, possibly not even a ground was urged in support of the alleged invalidity of the impugned notice dated 18th April 2022. As if this was not sufficient, the record bears out that the impugned notice dated 18th April 2022 was executed on 20th April 2022, when the PMC actually demolished the marriage hall which the petitioner had illegally constructed in the green belt zone/ river protection belt without bothering to obtain any permissions from any authorities for putting up the same.

37. The Writ Petition No. 5816 of 2023 was instituted only on 26th February 2023, i.e. almost ten months after the issue of the impugned notice dated 18th April 2022 and its execution. In the petition, the petitioners have not at all been candid. There are no clear averments about the execution of the impugned notice and the demolition carried out by the PMC on 20th April 2022. There is no dispute that the petitioners' unauthorised structure was demolished on 20th April 2022 in pursuance of the impugned notice dated 18th April 2022. Therefore, possibly, the petitioners seek a declaration that the demolition of this structure was illegal and bad in law. The petitioners were duty bound to disclose this factum of demolition, and failure to disclose constitutes suppression of a material fact.

38. The petitioners in the lead petition, after instituting the petition, have once again taken the law into their own hands and proceeded to brazenly reconstruct the marriage hall at the location

from where it was earlier demolished on 20th April 2022. Again, these petitioners did not bother to seek permission from any authorities. The petitioners reconstructed the demolished marriage hall, and they commenced using it for commercial purposes with no regard for the law or even the safety of the users. Admittedly, there was no occupancy certificate, and consequently, there were no clearances from the fire safety department, health authorities, etc. From this, it is apparent that these petitioners have neither any regard nor respect for the law and lawful procedures. The conduct of the petitioners, therefore, disentitles them from seeking any discretionary or equitable reliefs under Article 226 of the Constitution of India.

39. Mr Udane's contention that the petitioners reconstructed the marriage hall based on the interim relief granted by this Court is, with respect to him, most misconceived. Mr Udane was unable to show any order granting the petitioners, in the lead petition, any interim relief. In any event, the interim relief, if any, would have, at the highest, restrained the authorities from executing the demolition order had it not already been executed. Certainly, at least in the gross facts of this case, there was no question of some interim mandatory order permitting the petitioners to reconstruct the demolished marriage hall without seeking any permission from any authorities. The record bears out that no interim relief was granted in the Writ Petition No. 5816 of 2023 (lead petition) either by staying the demolition or by permitting the petitioners to reconstruct the marriage hall.

40. Mr Udane's tenuous submission that the interim relief was granted in Writ Petition No. 9693 of 2022 on 10th August 2022 and



after Writ Petition No. 5816 of 2023 was tagged with Writ Petition No. 9693 of 2022, the interim relief in the tagged petition should be considered as interim relief in Writ Petition No. 5816 of 2023 is equally mischievous. Even the interim relief in Writ Petition No. 9693 of 2022 did not even remotely entitle the petitioners in Writ Petition No. 9693 of 2022 from reconstructing the demolished construction.

41. Thus, the reconstruction of the marriage hall by the petitioners in the lead petition (Writ Petition No. 5816 of 2023) during the pendency of the petition and without obtaining any permissions from any authorities amounts to a brazen breach of law and legal procedures. Such conduct also disentitles the petitioners to any equitable and discretionary relief under Article 226 of the Constitution of India.

42. The argument in Writ Petition No. 5816 of 2023 about the deemed permission under Section 45(5) of the MRTP Act is misconceived. Section 45(5) provides that if the planning authority does not communicate its decision whether to grant or refuse permission to the applicant within sixty days from the date of receipt of his application or within sixty days from the date of receipt of reply from the applicant in respect of any requisition made by the Planning Authority, whichever is later, such permission shall be deemed to have been granted to the applicant on the date immediately following the date of expiry of sixty days. The first proviso to this provision provides that the development proposal so submitted must be in accordance with the rules and regulations. The second proviso provides that any development carried out in pursuance of deemed permission that is in contravention of the first

proviso's provisions shall be deemed unauthorised development for the purposes of Sections 52 to 57 of the MRTP Act.

43. Section 45 of the MRTP Act contemplates making a valid application under Section 44 to the planning authority. The DCR provides detailed provisions regarding such applications and their accompaniments. There is absolutely nothing on record to establish that the petitioners did make any such valid applications to the planning authority based upon which the petitioners now claim the deemed permission. As noted above, Mr Anturkar did not press this issue of deemed permission. Still, initially, he referred to paragraph No. 4 of the petition and documents at Exhibits 'C' and 'D' in support of the plea of deemed permission.

44. Paragraph No.4 in Writ Petition No. 5816 of 2023 reads as follows:

“4. The Petitioner, also submitted an application for the purpose of seeking the building permission and copy of the application and the plan submitted by the Petitioner is enclosed hereto and is marked as EXHIBIT-C. A letter, from the Architect of the Petitioner, viz. Siddharth S. Harishchandrarakar is enclosed hereto and is marked as EXHIBIT -D to the Memo of this Civil Writ Petition. In that letter, he has clearly confirmed that the said application was made and thereafter within the prescribed period, the said application has not been rejected. In the submission of the Petitioner, therefore the Deemed permission has been granted in favour of the Petitioner herein.”

45. The document at Exhibit 'C' is a plan that is far from clear. The document at Exhibit 'D' is a three-line private letter dated 29 November 2022 by a private architect stating that he had submitted

building plans of survey No. 49/part, Karve Nagar, Pune, as per D.C. Rules 2019. No reply was received sanctioning or cancelling the plans until the date of the address of communication dated 29 November 2022.

46. Based upon the pleadings in paragraph 4 and above and two documents at Exhibit 'C' and 'D', no case is made to invoke the provisions dealing with the deemed permissions. Such averments and contentions only strengthen Mr Pethe's contention that the petitioners in Writ Petition No. 5816 of 2023 are prepared to go to any extent to breach the law brazenly and put up unauthorised construction for commercial exploitation. For the above reasons, we are satisfied that no reliefs can be granted to the petitioners, as claimed in prayer clause (C).

47. Mr Anturkar's contention that the marriage hall is a recreational facility in the context of DCR 4.12 can also not be accepted. The provisions of DCR 4.12.1 have to be read holistically, bearing in mind the context. Such a holistic and contextual reading does not support Mr Anturkar's contention.

48. DCR 4.12, relied upon by Mr Anturkar, reads as follows:

“4.12 GREEN BELT ZONE/RIVER PROTECTION  
BELT

4.12.1 Following uses shall be permissible

- i) Agriculture,
- ii) Tree Plantation, Gardens, Public park, Landscaping, Recreational Open Space, Forestry and Nursery etc.

iii) River from development by Authority or any institution authorised on behalf of Authority.

iv) Development of pedestrian pathways, Jogging tracks, Cycle tracks, Boat clubs etc.

v) Swimming pools, club houses, recreational facilities after leaving 15 m. belt along river bank and 9m. from nallahs, subject to other provisions in these regulations.

vi) Public toilets as per requirement.

vii) Recreational open space of any layout/sub-division/ development proposals, if submitted along with the developable land adjoining such green belt, after leaving marginal distances of minimum 15m. and 9m. from rivers and nallahs, respectively, or subject to (1) restrictions mentioned in Regulation No. 3.1.3.

a) The uses and their extent shall be permissible in such Recreational open space, as prescribed in this regulation.

b) If the land under green belt zone, excepting open space therein, if any, is required by Authority for the public purposes mentioned above, the owner shall hand over the possession of such land for the development and maintenance of public purposes. Thereafter, such land shall remain open and accessible to general public for recreational activities.

c) The side/ rear marginal distances for a proposed building in a land adjoining a river/ nallah shall be the maximum of :-

(i) Side/ rear marginal distance, to be measure from river/ nallah, as required according to height of building or

(ii) 4.5 m. from the dividing line between green belt zone and the other developable zone; or

(iii) Mandatory distance of 15m. or 9m. to be observed from a river or nallah respectively.”

49. The holistic and contextual constructions of the above provision show that the permissible use in green belt zones or river protection belts relates to agriculture, gardens, pedestrian pathways, jogging tracks, cycle tracks, swimming pools, clubhouses, recreational facilities, public toilets, etc. Considering the users permitted, the expression “recreational facilities” could not be said to include the setting up of commercial wedding halls, garages, storehouses, etc., particularly by private parties for their commercial exploitation. The expression “recreational facilities” in DCR 4.12, therefore, can not be so widely construed as suggested by Mr Anturkar.

50. Though Mr Anturkar did not go as far as to contend that the petitioners have some indefeasible right to put up unauthorised construction without seeking prior approval from the authorities, he submitted that the petitioners whose unauthorised constructions are ordered to be demolished by issuing notices under Sections 52/53 of the MRTP Act have an indefeasible right to apply for retention/regularisation of such unauthorised construction. He submitted that until the authorities dispose of such applications for retention/regularisation, the demolition notice under Sections 52/53 of the MRTP Act can not be enforced.

51. The petitioners' conduct disentitles them to any relief in these petitions. The petitioner in the lead petition suffered a

demolition in pursuance of the impugned demolition notice. Still, by claiming to have obtained interim relief when, in fact, none was granted, this petitioner took the law into his own hands and reconstructed the marriage hall. Such a brazenly illegal structure cannot be regularised. Besides, for the above reasons, such a structure is not even regularisable, given the provisions of DCR 4.12.

52. Furthermore, this is a case where the petitioners have not even applied for regularisation or retention before the impugned notice dated 18th April 2022 was executed. The petitioners have not even applied for regularisation or retention at any time thereafter. The difficulty about lack of clarity concerning the permissible FSI in the green belt zone/ river protection belt does not appear to be any bonafide difficulty. Such difficulty did not prevent the petitioners from brazenly constructing and even reconstructing the marriage hall in the green belt zone/ river protection belt. Therefore, based upon this so-called projected difficulty, no indulgence whatsoever can be shown to the petitioners in Writ Petition No. 5816 of 2023 and other similarly circumstanced petitioners.

53. The reliefs in terms of prayer clauses (D) and (E) of Writ Petition No. 5816 of 2023 are also entirely misconceived in the facts and circumstances of the present case. No declaration, as sought in prayer clause (D), can at all be issued in the gross facts and circumstances of the present case. The PMC had issued a proper notice under Sections 52/53 of the MRTP Act, and relief in terms of prayer clause (D) proceeds on the premise that such notice was improper. As noted earlier, no submissions were made regarding the

alleged invalidity of the impugned notices. The main thrust of the oral and written submissions was the entitlement to apply for regularisation, however illegal the constructions built by the petitioners might be.

54. Even the alternate relief in terms of the prayer clause (E) is quite misconceived. There is no question of this Court directing the amendment to UDCPR, 2020 or declaring that until such amendment is made, the same provisions of the DCR 1987 would continue to apply. In the facts of the present case, such an issue does not even arise. The petitioners who succeeded in obtaining some interim relief raise such contentions only to prolong the hearing of the matters.

55. For these reasons, the relief in terms of prayer clauses (D) and (E) is hereby rejected.

56. Even otherwise, the law concerning the regularisation of illegal construction is fairly well settled. The benefit of regularisation is never to be extended to the parties who violate the building regulations or environmental regulations brazenly and with impunity. The Hon'ble Supreme Court has repeatedly warned against such regularisations and even directed action against officials who regularised such constructions without adequate cause. The Court has held that such indiscriminate regularisation discriminates against the law-abiding citizens who refuse to pay bribes and follow the due, though long, process of securing permission from all prescribed authorities before putting up any construction. A review of some of the precedents on this issue would emphasise this point.

57. In *Esha Ekta Apartments Cooperative Housing Society Limited and ors. vs. Municipal Corporation of Mumbai and ors.*<sup>1</sup>, the Hon'ble Supreme Court observed that in the last five decades, the provisions contained in various municipal laws for planned development of the areas to which such laws are applicable have been violated with impunity in all the cities, big or small. Those entrusted with the task of ensuring the implementation of the master plan, etc., have miserably failed to perform their duties. *It is highly regrettable that this is so despite the fact that this Court has, keeping in view the imperatives of preserving the ecology and environment of the area and protecting the rights of the citizens, repeatedly cautioned the authorities concerned against arbitrary regularisation of illegal constructions by way of compounding and otherwise.*

58. In *Royal Paradise Hotel (P) Ltd. vs. State of Haryana*<sup>2</sup>, the Hon'ble Supreme Court rejected the plea for regularisation of construction made in violation of the provisions of the planning and municipal legislation by observing that no authority administering municipal laws and other laws like the Act involved in the matter, can encourage such violations. *Even otherwise, compounding is not to be done when violations are deliberate, designed, reckless, or motivated. Marginal or insignificant accidental violations unconsciously made after trying to comply with all the law requirements can alone qualify for regularisation, which is not the rule but a rare exception.*

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<sup>1</sup> (2013) 5 SCC 357

<sup>2</sup> (2006) 7 SCC 597



59. In *Dipak Kumar Mukherjee vs. Kolkata Municipal Corporation and ors.*<sup>3</sup>, the Hon'ble Supreme Court has held that what needs to be emphasised is that illegal and unauthorised constructions of buildings and other structures not only violate the municipal laws and the concept of planned development of the particular area but also affect various fundamental and constitutional rights of other persons. *The common man feels cheated when he finds that those making illegal and unauthorised constructions are supported by the people entrusted with the duty of preparing and executing the master plan/development plan/zonal plan. The reports of the demolition of hutments and jhuggi shops belonging to the poor and disadvantaged section of society frequently appear in the print media. Still, one seldom gets to read about the demolition of illegally/unauthorisedly constructed multi-storeyed structures raised by economically affluent people. The failure of the State apparatus to take prompt action to demolish such illegal constructions has convinced the citizens that planning laws are enforced only against the poor and all compromises are made by the State machinery when it is required to deal with those who have money and power or unholy nexus with the power corridors.*

60. In *Shanti Sports Club vs. Union of India*<sup>4</sup>, the Hon'ble Supreme Court has, after advertng to its several earlier judgments on the subject, taken cognisance of buildings constructed in violation of municipal and other laws and emphasised that no compromise should be made with the town planning scheme and no relief should be given to the violator of the town planning scheme,

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<sup>3</sup> (2013) 5 SCC 336

<sup>4</sup> (2009) 15 SCC 705

etc. on the ground that he has spent a substantial amount on the construction of the buildings. *The Hon'ble Supreme Court remarked that, unfortunately, despite repeated judgments of the Supreme Court and High Courts, illegal constructions continue to mushroom, and thereafter, pleas are made for regularisation on the grounds of compassion and hardship. Therefore, the Hon'ble Supreme Court has observed that it is high time that the executive and political apparatus of the State take a serious view of the menace of illegal and unauthorised constructions.*

61. In *Friends Colony Development Committee vs. State of Orrisa*<sup>5</sup>, the Hon'ble Supreme Court has held that structural and lot area regulations authorise the municipal authorities to regulate and restrict the height, the number of storeys and other structures, the percentage of a plot that may be occupied; the size of yards, courts, and open spaces; the density of population; and the location and use of buildings and structures. All these have and do achieve the larger purpose of public health, safety or general welfare. So are front setback provisions, average alignments, and structural alterations. Any violation of zoning and regulation laws takes a toll in terms of public welfare and convenience being sacrificed apart from the risk, inconvenience, and hardship posed to the occupants of the building. The Hon'ble Supreme Court further observed *that municipal laws permit deviations from sanctioned constructions being regularised by compounding, but that is by exception. Unfortunately, with the lapse of time and frequent exercise of the discretionary power conferred by such exception, the exception has become the Rule. Only such deviations deserve to be condoned as are bona fide or are attributable to some misunderstanding or are such deviations as where the benefit gained by*

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<sup>5</sup> (2004) 8 SCC 733

*demolition would be far less than the disadvantage suffered. Other than these, deliberate deviations do not deserve to be condoned and compounded. Therefore, compounding of deviations ought to be kept at a bare minimum.*

62. Relying on the above decisions, this Court, in ***Commissioner vs. Tahir Isani***<sup>6</sup>, had set aside the order of regularisation of a patently unlawful construction. This decision was challenged before the Hon'ble Supreme Court of India by instituting Special Leave to Appeal(C) No.4135 of 2021. However, the same was dismissed by the Hon'ble Supreme Court, observing thus:-

*"Heard learned counsel for the Petitioner.*

*The violation of municipal regulations on construction must be met with an iron fist. That deviation from the regularisation by compounding is only an exception. Only deviations that are bonafide or when the benefit of demolition would be less compared to the disadvantage suffered, can the exception be applied. We do not find any ground to interfere. The demolition was ordered in the year 2001. Till this day, the same is being prolonged. Hence, we decline to interfere with the judgment and order of the High Court. The Special Leave Petition stands dismissed."*

63. Very recently, in ***Kaalkaa Real Estates Private Limited & Anr. vs. Municipal Corporation of Greater Mumbai & Ors.***<sup>7</sup>, decided by the Division Bench of our Court on 20.09.2022, it was held that no indulgence must be shown to unlawful constructions that are brazenly put up. *Only such deviations deserve to be condoned as*

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<sup>6</sup> 2021 S.C.C. OnLine Bom 122

<sup>7</sup> Writ Petition (L) No.22398 of 2022

*are bonafide or are attributable to some misunderstanding or are such deviations as where the benefit gained by demolition would be far less than the disadvantage suffered.*

64. The Division Bench relied inter alia on *Mahendra Baburao Mahadik & Ors. v/s. Subhash Krishna Kanitkar & Ors.*-(2005) 4 S.C.C. 99, *M. I. Builders (P) Ltd. vs. Radhey Sham Sahu* (1999) 6 SCC 464, *Sharad Nago Chinawale vs. Ulhas Devram Sabale*, 2017 S.C.C. OnLine Bom. 8179, *Overseas Chinese Cuisine (India) Pvt. Ltd. & Another vs. The Municipal Corporation of Greater Bombay & Ors.*-(2000) 1 Bom CR 341, *Savitribaiphule Shikshan Prasarak Mandal, Kamapur Vs. Solapur Municipal Corporation & Anr.* 2019 S.C.C. OnLine Bom 1771, *Divgi Metal Wares Pvt. Ltd. Vs Municipal Corporation of the City of Pune & Ors.* (2019) 5 Mah LJ 484, *Supertech Limited vs. Emerald Court Owner Resident Welfare Association & Others*, (2021) 10 S.C.C.(1), *K. Ramadas Shenoy vs. Town Municipal Council, Udipi*, (1974) 2 SCC 506, *Priyanka Estates International (P) Ltd. vs. State of Assam*, (2010) 2 S.C.C. 27, *Esha Ekta Apartments Coop. Housing Society Ltd. v. Municipal Corporation of Mumbai*, (2013) 5 SCC 357, *Pratibha Co-operative Housing - Society Ltd. and another vs. State of Maharashtra & Others*, (1991) 3 SCC 341, *Jilani Building at Bhiwandi vs. Bhiwandi Nizampur Municipal Corporation and others*, (2022) S.C.C. OnLine Bom 386, *Dipak Kumar Mukherjee vs. Kolkata Municipal Corporation and Ors.*, (2013) 3 S.C.C.(Civ) 72 and *Sudhir M. Khandwala vs. Municipal Corporation of Greater Mumbai & Ors.*, 2010 (2) *Mh.L.J.* 759, on the subject of regularisation of illegal constructions. Finally, the Division Bench reiterated *that the regularisation of illegal constructions brazenly put up*

*in defiance of the legal provisions and the stop work notice must not ordinarily be permitted.* The Hon'ble Supreme Court dismissed the Special Leave Petition against this order on 26.09.2022.

65. Therefore, applying the ratio of the above-referred precedents to the gross facts of each of these petitions, no case is made out to direct the authorities to consider the regularisation of the constructions that the Petitioners have put up with impunity and in defiance of virtually all the planning laws and regulations.

66. Mr Anturkar's submissions in the context of the judgment disposing of Suo Moto Writ Petition No. 2/2023 also cannot be accepted. A judgment of a Court cannot be interpreted like a statute. The fact that the respondent in the said petition had brazenly encroached upon the CIDCO land was just one of the considerations why this Court did not permit such a respondent to seek regularisation. But this Court, by following some of the above-referred precedents, held that the regularisation of illegal constructions brazenly put up in defiance of the legal provisions and the stop work notice must not ordinarily be permitted.

67. In any event, even if we decline to follow the judgment in the suo moto writ petition because of the partial stay on the implementation of some of the directions issued therein, still, considering the gross facts in each of these petitions and the law laid down by the Hon'ble Supreme Court in matters of regularisation of illegal constructions, no relief can be granted to the petitioners.

68. For all the above reasons, Writ Petition No. 5816 of 2023 is liable to be dismissed and hereby dismissed with costs of Rs.

50,000/- payable by the petitioner to the PMC within four weeks. These costs are imposed because the petitioner, with impunity, reconstructed the demolished marriage hall without obtaining any permissions from any authorities and by claiming to have obtained interim relief from this Court when, in fact, no such interim relief was ever granted.

69. So far as the petitioner in Writ Petition No. 5477 of 2023 is concerned, he has put up a shed to undertake the industrial activity of glass work, aluminium works and recycling plant. None of these users could even be remotely styled as permissible users under DCR 4.12 quoted above. Therefore, there is no infirmity whatsoever with the impugned action of the PMC in ordering the demolition of said shed. Given the discussion for dismissing the lead petition above, Writ Petition No. 5477 of 2023 is also liable to be dismissed with costs quantified at Rs.25,000/- payable by the petitioner to the PMC within four weeks. Interim relief, if any, is vacated.

70. In so far as Writ Petition No. 5478 of 2023 is concerned, the petitioner therein has put up a tin shed/toilet shed. The DCR 4.12 only protects public toilets. The PMC's return states that on the earlier occasion, a smaller structure put up by the petitioner in Writ Petition No. 5478 of 2023 was demolished pursuant to the notice dated 07th May 2019. The petitioner has suppressed this fact. The petitioner had reconstructed a similar structure and by the impugned notice, the same was ordered to be demolished. Such repeated unauthorised construction disentitles this petitioner to any relief. Even on merits, no relief is due to this petitioner. Writ Petition No. 5478 of 2023 is accordingly dismissed with costs

quantified at Rs. 25,000/- payable by the petitioner to the PMC within four weeks. Interim relief, if any, is vacated.

71. So far as Writ Petition No. 5479 of 2023 is concerned, the petitioner therein has constructed a shed through which he carries out furniture works and a garage. Again, this is not one of the permissible users under DCR 4.12. Therefore, by adopting the reasons in the lead petition (Writ Petition No. 5816 of 2023), Writ Petition No. 5479 of 2023 is dismissed with costs quantified at Rs. 25,000/- payable by the petitioner to the PMC within four weeks. Interim relief, if any, is vacated.

72. So far as Writ Petition No. 5480 of 2023 is concerned, the petitioner therein has put up a shed in which he carries out the business of pet care in the name “Tails of the City”. By adopting the reasons in the lead petition (Writ Petition No. 5816 of 2023), Writ Petition No. 5480 of 2023 is dismissed with costs quantified at Rs. 25,000/- payable by the petitioner to the PMC within four weeks. Interim relief, if any, is vacated.

73. In so far as Writ Petition No. 5481 of 2023 is concerned, the petitioner therein is using the tin shed for residential purposes. The petitioner put up the construction without any permission from any authorities. There is no infirmity in the impugned notice. Accordingly, even Writ Petition No. 5481 of 2023 is liable to be dismissed and is hereby dismissed without costs. Interim relief, if any, is vacated. No costs are imposed because the structure, though illegal, was not used commercially.

74. So far as Writ Petition No. 5482 of 2023 is concerned, the petitioner therein has put up a shed which he uses as a tea stall and store. Again, the said shed was put up without any permission from any authorities, and consequently, the impugned notice can not be faulted. For these reasons, Writ Petition No. 5482 of 2023 is dismissed with costs quantified at Rs. 5000/-. Considering the nature of the illegal construction put up by this petitioner, fewer costs are imposed. Interim relief, if any, is vacated.

75. So far as Writ Petition No. 5483 of 2023 is concerned, the petitioner therein has put up constructions through which he is operating a restaurant. Again, no permissions were obtained from any authorities to put up said construction. The case of this petitioner is not comparable to the case of the petitioner in Writ Petitions No. 5481 of 2023 and 5482 of 2023, wherein the petitioners were using the illegal sheds for residential purposes and a small tea stall. Therefore, Writ Petition No. 5483 of 2023 is dismissed with costs quantified at Rs. 25,000/- payable by the petitioner to the PMC within four weeks. Interim relief, if any, is vacated.

76. In so far as Writ Petitions No. 5484 of 2023, 5485 of 2023 and 5486 of 2023 are concerned, the petitioners are using the unauthorised constructions put up by them as storage godowns. For the reasons in the context of the lead petition (Writ Petition No. 5816 of 2023) and Writ Petition No. 5477 of 2023, all these petitions are liable to be dismissed and hereby dismissed with costs quantified at Rs. 25,000/- payable by each petitioner to the PMC within four weeks. Interim relief, if any, is vacated.



77. In regard to Writ Petitions Nos. 5484 of 2023 and 5485 of 2023, the PMC returns indicate that these petitioners' structures were earlier demolished on 07 September 2021. However, after such demolition, the petitioners reconstructed these structures without obtaining any permission from any authorities. Thus, apart from the law, even the conduct of these petitioners disentitles them to any relief under Article 226 of the Constitution of India.

78. So far as Writ Petition No. 5506 of 2023 is concerned, the petitioner is operating a marriage hall or marriage venue from unauthorised construction. Therefore, for the reasons set out in the context of the lead petition, this petition is liable to be dismissed and hereby dismissed with costs quantified at Rs. 25,000/- payable by the petitioner to the PMC within four weeks. Interim relief, if any, is vacated.

79. So far as the Writ Petition No. 5826 of 2023 is concerned, the petitioner therein is operating a garage. On 20th April 2022, this structure was demolished, and without obtaining permission from any authorities, reconstructed the structure in the same place. Thus, for the reasons set out in the context of the lead petition, even this petition is liable to be dismissed and is hereby dismissed with costs of Rs. 25,000/- payable by the petitioner to the PMC within four weeks. Interim relief, if any, is vacated.

80. The rule in all the petitions is discharged as indicated above. All interim applications also stand disposed of.

81. Perhaps anticipating the dismissal of these petitions, Mr Udane had prayed for an extension of interim relief to enable the petitioners to challenge this judgment and order.

82. However, given the gross facts discussed above and the fact that interim orders were obtained in most of these petitions by suppressing material facts about the demolition of the petitioner's structures by the authorities by following the due process of the law, and the petitioners reconstructing such structures by defying the due process of the law, no such extension can be granted. The prayers for an extension of interim reliefs are, therefore, rejected.

**(Kamal Khata, J)**

**(M. S. Sonak, J)**