

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 11628 OF 2025

Yashwant Eshwar Sarnaik and others

...Petitioners

Versus

The State Of Maharashtra And Others

...Respondents

Mr. Ketan Joshi - Advocate for the Petitioners
Mr. Abhijit Adgule - Advocate for Respondent No. 4
Mr. A. P. Vanarase - AGP for the State.

**Coram : Sharmila U. Deshmukh &
Neeraj P. Dhote, JJ.**

Date : October 07, 2026.

P. C. :

1. By the present petition, the relief sought by the Petitioner is a declaration that the ULC proceedings in respect of the lands in question stand abated in view of the ULC Repeal Act, 2007 and, consequently, the illegal entries made in the Property Register of the Kolhapur Municipal Corporation be deleted. The lands in question are Survey Nos. 1050/1, 1051/4, 1051/3, 770/1 and 770/2 (Part).

2. The Petitioner – Yashwant Eshwar Sarnaik was the original owner of the lands in question and had filed returns under Section 6(1) of the Urban Land (Ceiling and Regulation) Act, 1976 (for short, 'the ULC Act').

Pursuant to the said returns filed under Section 6(1) of the ULC Act, the proceedings under Section 8(4) of the ULC Act were initiated on 12.12.1978 and ultimately culminated in an order declaring the said lands as surplus lands. The Competent Authority published a notice under Section 10(1) of the ULC Act on 12.02.1979, and a subsequent notice under Section 10(5) of the ULC Act dated 10.04.1985 was issued, thereby fixing 21.05.1985 as the date for surrender of possession.

3. The notice under Section 10(5) of the ULC Act came to be challenged before this Court by filing Writ Petition No. 1921 of 1985. On 06.05.1985, an interim order came to be passed staying the operation of the impugned notice dated 10.04.1985. As a result, possession of the lands remained with the original owners. Subsequently, the Petition came to be allowed by Judgment and Order dated 05.09.1985, and directions were issued for initiating fresh proceedings under Section 8 of the ULC Act. On 03.01.2005, a fresh order under Section 8(4) of the ULC Act came to be passed. Even thereafter, no further steps were taken. The ULC Act came to be repealed in the year 2007, however, the entries remained in the property register of the Municipal Corporation.

4. The learned Counsel appearing for the Petitioners has taken the Court through the statutory provisions and would submit that, by virtue

of the stay granted by this Court in the year 1985, possession was not taken under Section 10(5) of the ULC Act and remained with the landowners. He would further submit that, when the fresh ULC proceedings were at the stage of Section 8(4), no further proceedings took place and in the meantime the ULC Act came to be repealed, by reason whereof the proceedings stood abated.

5. Learned Counsel appearing on behalf of the Kolhapur Municipal Corporation would point out that the Corporation had written to the Urban Development Department, setting out the facts in question, and had stated that prior to 29.11.2007, actual possession had not been taken and there does not appear to be any fresh proceedings under Section 10 of the ULC Act pursuant to the order passed by the High Court. He would submit that the Corporation has sought guidance from the State Government in respect of the entries which continue to remain in the Property Card Register of the Municipal Corporation. He submits that the report was submitted on 14.02.2025 and, as of date, there is no response to the said report.

6. The learned AGP would submit that, under the provisions of the ULC Act, in the year 1978, the lands were declared as surplus and a notice was issued on 10.04.1985 under Section 10(5) of the ULC Act. He

would submit that, on 21.05.1985, the Tahsildar was informed about taking possession of the lands and handing over the same to the Kolhapur Municipal Corporation Dispensary and Primary School. He would submit that information was sought from the Tahsildar as to whether possession of the lands had been taken over and whether the same had been transferred to the Kolhapur Municipal Corporation Dispensary and Primary School. He would submit that, as per the report of the Tahsildar dated 25/30.04.2025, possession of the lands has not been transferred to the Kolhapur Municipal Corporation.

7. Considered the submissions and perused the reports.

8. The statutory provisions under the ULC Act commence with the declaration/statement filed by the owners of the land holding land in excess of the ceiling limit, pursuant to which the area of excess land is determined by the Competent Authority and a final statement is prepared by the Competent Authority after hearing the objections. Section 10 of the ULC Act (since repealed) provides for the acquisition of excess vacant land and, under sub-section (5) of Section 10, where any vacant land is vested in the State Government under sub-section (3) of Section 10, the Competent Authority may, by notice in writing, order any person who may be in possession thereof to surrender or deliver

possession thereof to the State Government or to any person duly authorised by the State Government in this behalf within thirty [30] days of the service of the notice.

9. The proceedings under the ULC Act had reached the stage of issuance of notice under Section 10(5). However, before possession could be handed over, the said notice came to be challenged, pursuant to which the proceedings came to be stayed and, subsequently, the Petition came to be allowed. Resultantly, fresh proceedings under Section 8 of the ULC Act were directed to be initiated in respect of the area of vacant land, which did not proceed further and, in the meantime, the ULC Act came to be repealed. The reports placed on record by the Municipal Corporation and the ULC Department would confirm the factual position as set out in the Petition and also that possession was not taken and handed over to the Kolhapur Municipal Corporation. The reports further indicate that, after the earlier proceedings under the ULC Act, the proceedings were initiated which did not reach the stage of Section 10 of the ULC Act after the order passed by this Court.

10. In view of the aforesaid position brought on record, the continued entries in the Property Register of the Municipal Corporation are unsustainable. The Corporation itself, by its communication dated

14.02.2025, has sought guidance in respect of deletion of these entries, and the said entries are required to be deleted. The Petition deserves to be allowed.

11. In light of the above, the Petition is allowed in terms of prayer clause 'A' and 'B' thereof, which read as under: -

"[a] This Hon'ble Court be pleased to issue Writ of Mandamus and/or any Writ and/or order in the nature Mandamus and/or any other appropriate order or direction thereby declaring the ULC proceedings in respect of lands in questions are abetted in view of the ULC Repeal Act 2007;

[b] This Hon'ble Court be pleased to issue Writ of Mandamus and/or any Writ and/or order in the nature Mandamus and/or any other appropriate order or direction thereby directing the Respondent No. 4 Municipal Corporation to delete the illegal entries made in the property register of the Corporation."

12. In the event any application is filed by the Petitioners for development, the Corporation is at liberty to consider the same in accordance with law.

[Neeraj P. Dhote, J.]

[Sharmila U. Deshmukh, J.]