

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION FOR LEAVE TO APPEAL (STATE) NO. 27 OF 2025

HUSENBASHA
RAHAMAN
NADAF

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Union of India through)
Central Bureau of Investigation)
Anti Corruption Branch,)
Plot No. C-35, A, 'G' Block,)
Bandra East, Mumbai-400098) ...Applicant

Versus

1. Madan Mohan Banerjee)
O/O. Assistant Estate Manager)
Estate Manager Old CGO Building)
Annex 101 M.K. Road,)
Mumbai 400020)
Residence of Jagat Berth Post Shri Palli,)
Bardhaman, West Bengal- 713103) ...Respondent/A-1
2. Shri Mukesh K. Bhanushali)
R/o. Om Building, 94-95, 1st Floor)
Chitranjan Nagar, CHS, D-13-95)
Vidhyavihar East Mumbai-400077) ...Respondent/A-2
3. Shri Narayan Mahadu Kanade)
R/o 203, Shiv Parvati, CHS,)
Sector 21, Nerul East, Navi Mumbai) ...Respondent/A-3
4. The State of Maharashtra) ...Respondent

Mr. Amit K. Munde, Special Public Prosecutor a/w Mr. Jai Vohra & Mr. Shantanu Nakashe for the Applicant - CBI, ACB, Mumbai.
Mr. Eknath V. Sawant a/w. Mr. Harish Zende, Mr. Tejasvee Lad & Ms. Gauri Parab for Respondent No. 1.
Mr. Pranil Sonawane a/w. Mr. Krishna Shukla i/b KLS Legal for Respondent Nos. 2 & 3.

Ms. Sharmila Kaushik, APP for Respondent No.4-State.

CORAM : M.M. SATHAYE, J.

RESERVED ON : 30th JULY, 2026

PRONOUNCED ON : 21st AUGUST, 2026

JUDGMENT :

1. The Appellant-Applicant has filed this application seeking leave to file appeal against the Judgment and Order dated 27.03.2018 passed by Special Judge for CBI, Greater Mumbai in CBI Special Case No.22 of 2011. By the said impugned order, the present Respondent Nos.1 to 3 (accused Nos.1 to 3) are acquitted of offences punishable under Sections 120B, 420 & 406 of Indian Penal Code, 1860 ('IPC', for short) and under Sections 13(2) r/w. 13(1)(d) of Prevention of Corruption Act, 1988 ('PC Act', for short).

2. The case of the prosecution, in short is as under.

2.1. That during 2006 to February 2009 Respondent-accused No. 1 was posted as Assistant Estate Manager in the Office of Estate Manager, Mumbai. That Respondent-accused No. 2 was allotted Shop No. 7 in the Convenient Shopping Center, CGS Colony, Antop Hill, Mumbai on license basis. That Respondent-accused No. 3 was allotted Shop No. 9. That one Jacob Victor was allotted Shop No. 8. This Mr. Jacob Victor is not an accused.

2.2. That the Respondents-accused hatched a conspiracy by which accused No. 2 took possession of Shop Nos. 8 and 9 without consent of the competent authority and accused No. 1 by abusing his official

position granted permission to accused No. 2 to make temporary construction which was later converted into permanent construction where accused No. 2 ran 'Micro-Air Diagnostic Health Center'. As per Office Order dated 06.12.2006 of the Deputy Director of Estates, New Delhi, Respondent-accused No. 1 was expected to take action of eviction and cancellation of allotment. However, he did not take any action on the report of CPWD and by his acts and omissions, caused wrongful gain to accused No. 2 and corresponding wrongful loss to Government of India.

3. On completion of investigation and after obtaining sanction from the competent authority, charge sheet was filed. The Respondents-accused pleaded not guilty and claimed to be tried. Respondent-accused No. 1 has pleaded innocence and false implication. According to him, the powers of Estate Manager as well as Estate Officer were not delegated to him. According to Respondents-accused Nos. 2 and 3, they were falsely implicated.

4. The prosecution examined as many as 21 witnesses. The learned Special Judge of the CBI has, after hearing the parties and on appreciation of evidence has acquitted the Respondents-accused of all offences.

5. Learned counsel Mr. Munde appearing for the Appellant-Applicant submitted as under.

5.1. That the action and omission of Respondent-accused No. 1 about the illegal construction and illegal transfer of Shops amongst the accused amounts to cheating and breach of trust. That inaction of

Respondent-accused No.1 amounts to misconduct, as he did not take any action against illegal construction despite knowing it and kept mum.

5.2. That illegal construction is proved and it amounts to loss to central government.

5.3. That Respondent-accused No. 3 by giving his gala/Shop to accused Respondent No. 2, has aided and abetted the offence.

5.4. That the act of Respondent-accused No. 1 of letting accused No. 2 raise unauthorised construction as well as the act of accused No. 3 sub-letting the Shop to accused No. 2 has resulted into cheating and dishonest inducement for delivery of property. That omissions by Respondent-accused No. 1 amounts to criminal misconduct by public servant.

5.5. That PW-1 had sought demolition of construction and cancellation of allotment and it was the duty of the Respondent-accused No. 1-Estate Manager to check whether the allottee was using the property or somebody else.

5.6. That PW-11, who was an Executive Engineer at the relevant time, has stated that in his reply letter to Respondent - accused No.1, he had mentioned about encroachment made by allottees of Shop Nos. 7, 8 and 9 and certain photographs were sent. He submitted that the Assistant Manager after visiting the site, informed that allottees had constructed temporary wall around the Shop and had also prepared temporary AC sheet roof.

5.7. That Respondent-accused No. 2 made illegal encroachment by constructing permanent wall without taking permission and without payment of requisite fees. That Respondent-accused No. 1 granted permission to Respondent-accused No. 2 vide letter dated 29.07.2008 for temporary construction without renewal of licence and without enhancement of rent.

5.8. That Respondent-accused No. 2 conspiring with Respondent-accused No. 3 took possession of Shop Nos. 8 and 9 without consent of competent authority and Respondent-accused No. 3 has dishonestly sub-let Shop No. 8 to Respondent-accused No. 2 in violation of legal contract and these acts and omissions amount to the offences alleged.

6. On the other hand, learned counsel for Respondent-accused No. 1 supported the impugned order of acquittal and submitted as under.

6.1. He submitted that no loss to central government has been proved. Breach of trust has not been proved. Cheating has not been proved and above all, the prosecution has not proved any monetary benefit to the Respondent No. 1.

6.2. That the order of acquittal is well reasoned, taking most probable view and therefore interference is not called for.

6.3. That Respondent No. 1 has been made scapegoat by the officers involved and mere suspicion cannot serve as evidence.

6.4. That this Court should be slow to interfere because the trial Court had the advantage of seeing the witnesses. That presumption of innocence has been verified by the judgment of acquittal.

6.5. Relying on Office Memorandum (D-9-Exh-22), he submitted that it is the CPWD which is responsible not only for detecting and reporting but also for preventing and removing unauthorised construction in government accommodation and this fact has been admitted by various prosecution witnesses. He relied on following judgments in support of his case.

- i. Chandigarh Administration, Chandigarh Vs. Dharam Singh AIR 1985 SC 1671.
- ii. State (Govt. of Delhi) Vs. Mr. Rajbir Singh and Ors. 2002 CRILJ 3882.
- iii. Delhi Race Club (1940) Ltd. and Ors. Vs. State of Uttar Pradesh and Anr. AIR 2024 SC 4531.

7. Learned counsel for Respondent-accused Nos. 2 and 3 submitted as under.

7.1. That Respondent Nos. 2 & 3 are private individuals and sections of PC Act are not applicable to Respondent Nos. 2 and 3.

7.2. That Respondent-accused No. 3 permitted Respondent-accused No. 2 to use the Shop and there is no illegality committed therein as Respondent-accused No. 2 was holding right as lessee, which was valid for 30 years and there was no default of payment of rent. That Clause 6 of the document permitted addition and alteration or construction by payment of extra license fees.

7.3. That ingredients of the offences including Section 420 of IPC, are not made out.

7.4. That on 29.07.2008, permission was granted with condition of undertaking by Respondent-accused No.1.

7.5. That case of conspiracy and cheating are not at all made out against Respondent Nos. 2 and 3.

7.6. That this is nothing but a civil case to which colour of criminal case is given. That the Public Premises (Eviction Of Unauthorised Occupants) Act, 1971 ('PPE Act', for short) takes care of the issues involved in the present case, however, till filing of this criminal case, no civil action was taken.

7.7. He relied on the copy of License Deed, Allotment letter and recent Rent fee receipt, Office Memorandum dated 26.04.2005 and judgment of **Vijay Kumar Ghai and Ors. Vs. State of West Bengal and Ors. (2022) 7 SCC 124** in support of his case.

REASONS AND CONCLUSION

8. I have considered the rival submissions and perused the record.

9. I have perused the depositions of various witnesses. It is interesting to note that for the offences alleged, the Applicant has examined as many as 21 witnesses involving many witnesses about whom no arguments were advanced while seeking leave.

10. Let us see what the witnesses have stated in short.

11. PW-2 Mr. Hemant Kumar is a Junior Engineer with CPWD, who has reported to his superior about illegal construction around Shop No. 7. He has admitted that the alleged illegal construction is adjacent to the building of his superior's office. He has admitted that he has no documentary evidence to show what was legal construction of the said Shop. He has admitted that he is not aware as to whether original plan of the shopping complex is submitted with CBI. He has admitted that he had not supplied copy of construction of the shopping complex. He has further admitted that he had not mentioned in his letter about taking photographs in digital camera. He has admitted that he has not handed over the digital camera/chip or memory card to CBI.

12. PW-2 has also admitted that nature of duty of CPWD is to prevent, detect, report, remove, demolish unauthorised construction on open land or government accommodation. He has further admitted that his department has power to demolish illegal constructions. He has also admitted that there are many illegal hutments in the Antop Hill Government Colony including a temple situated at the back side of building No. 87, which is illegal. He has admitted that said temple and other illegal constructions/hutments are in his jurisdiction, which are not removed. He has admitted that except giving intimation, he has not taken any other steps. He has admitted that illegal construction can be stopped by Municipal Corporation, however, he has not given any intimation to Municipal Corporation. On being shown Circular Exh-22 issued by Ministry of Urban Development dated 26.04.2005, he has admitted that as per

said Circular, CPWD is responsible not only for detecting and reporting, but also preventing and removal of unauthorised construction in government accommodation.

13. PW-2 has further admitted that when he had visited the said Shop, he was not carrying any plan. He has admitted that he has not verified from any department whether the person carrying out construction had taken permission or not. He has admitted that without verifying about permission he had informed his superior officer. He has admitted that he has not verified lease agreement of Shop No. 7. He has further admitted that on his letter Exh-26, (intimating alleged illegal construction) there is no seal of the department and sanction plan/other documents are not annexed to the same. He has admitted that before reporting about alleged illegal construction, he has not seen original plan. He has further admitted that no panchnama was drawn while taking the photographs submitted by him.

14. PW-1 is an Assistant Engineer to whom PW-2 had reported about alleged illegal construction. This witness has admitted that the said Shop No. 7 is about 15 feet away from his own building. He has admitted that nature of his job was to prevent illegal construction in the colony and he had the power to demolish illegal construction after taking permission from the superiors. He has also admitted that he is not aware as to whether Executive Engineer has been appointed and notified as a Estate Officer. He has also admitted that no earlier plan (showing original construction) was submitted to CBI or Executive Engineer. He has also admitted that he has not stated

before the CBI officer that his Junior Officer (PW-2) was with him when he visited the said Shop and took photographs. Though photographs taken are given Exh-29 (Colly), they were given subject to objection on the ground that digital camera and SD card are not produced before the Court.

15. PW-3 is the Accountant in Estate Manager's office who has brought on record that Respondent-accused No. 1 Mr. Banerjee worked as 'In-charge Estate Manager' from 15.02.2007 till 07.05.2007 which was for less than 3 months' time. She has further stated that after retirement of one Mr. Jagdishlal, the Respondent-accused No. 1 had taken charge as Estate Manager in 01.07.2008. She has also admitted that the license fee in respect of Shop No. 9 was from March 1988 till September 2009, license fee for Shop No. 7 was from December 2002 till September 2009 and license fee for Shop No. 8 was from February 1988 till September 2009.

16. This witness PW-3 has admitted that at the time of incident, the dues of Shop Nos. 7 to 9 were paid. She has also admitted that the earlier dealing officer Mr. Dhamba had not brought to the notice of his superiors about dues in respect of Shop No. 9, but Respondent-accused No. 1 had issued letters in that respect. This witness has also admitted that correspondence was going on in respect of Shop Nos. 7 to 9 about 'temporary roof, water and sanitary connection' and according to her, such permission was not given and therefore, question of extra license fee did not arise. She has admitted that removal of unauthorised construction need not follow cancellation of allotment and eviction of occupant.

17. PW-4 and PW-5 are Mechanic and Sub-Divisional Engineering from Telephone Company. It is not explained for what purpose these witnesses are examined.
18. PW-6 is Lower Division Clerk in the Estate Manager Office. He was examined for proving certain correspondences made with the office of the Estate Manager.
19. PW-7 is the Director of Estates who is the sanctioning authority.
20. PW-8 is the is a Bank employee, who is examined for proving vouchers and pay orders issued in favour of the Estate Manager.
21. PW- 9 is the Ticket Collector on railway station, who accompanied a CBI officer during his visit to a nursing home, where certain photographs were taken and panchnama was drawn.
22. PW-10 is an Assistant Grade-II (Depot) in Food Corporation of India who was asked to accompany the CBI officer who had gone to the office of Respondent No. 1 accused and in whose presence the *almirah* and drawer of Respondent No. 1 accused was searched and panchnama was drawn.
23. PW-11 is an Executive Engineer with CPWD who has stated that in reply to letters given By Respondent No. 1-accused, he had mentioned about encroachment made by allottees of Shop Nos. 7, 8 and 9 and along with reply he had sent some photographs, which were taken by the Assistant Engineer. This witness claims to have requested the Assistant Estate Manager to cancel the allotment. He

has admitted in cross-examination that he has not come across any letter addressed to the allottee of Shop No. 7 by Assistant Estate Manager permitting him to make temporary construction. He has admitted that he has not seen lease deed of Shop Nos. 7, 8 and 9. He has further admitted that there was unauthorised construction in all the shopping centres. He has further admitted that there were 5 Assistant Engineers and 16 Junior Engineers working under him. He has stated that he does not remember the date on which and time at which, he had visited Shop No. 9.

24. PW-12 is an Executive Engineer, who has stated that he has written letter to Estate Manager in respect of encroachment of illegal construction activity. This witness has admitted that he has received the knowledge of alleged illegal construction by accused No. 2 only from Mr. Chidre (Asst. Engineer) and not otherwise.

25. PW-13 is a peon in CPWD who used to receive letters from other offices. He has only stated that he has written about delivery of letters to Estate Manager. It is not explained why this witness was examined.

26. PW-14 is an Upper Division Clerk in the Account Section of Estate Manager's Office. He is examined to prove certain letters issued by Respondent No. 1-accused about permission. This witness has admitted that he has no personal knowledge regarding the contents of the documents shown to him including the letters.

27. PW-15 is an Assistant Engineer with CPWD, who has issued letter to Executive Engineer about encroachment in the shopping

complex. This witness has admitted that during his tenure, there was unauthorised constructions made by allottees of all the Shops.

28. PW-16 is a Legal Assistant in the Office of Estate Manager who has admitted in cross-examination that the Estate looked after by Estate Manager comes under the provisions of PPE Act.

29. PW-17 is an earlier Estate Manager, who has stated that he does not remember whether he dealt with file of Shop No. 7. This witness was not cross examined. It is not explained for what purpose this witness was examined.

30. PW-18 is an Assistant Director (Market), Director of Estates. He had stated that Exhibit 102 is the letter addressed by Respondent No. 1-accused to the Deputy Director, Mr. V. P. Gupta asking for permission for temporary roof, sanitary and water connection in Shop No. 7 and this letter was replied by the witness. This witness has stated that under his reply, it was informed to Respondent No. 1 that 'there was no specific guidelines in the matter'. He has also stated about letter from Respondent No. 1-accused to Deputy Director Estates, informing that concerned Shopkeeper had given layout plan 'for temporary construction of roof, water and sanitary connection' and that Shopkeeper was being provisionally permitted to carry out temporary construction of roof, water and sanitary connection. This witness has admitted that he does not remember whether any action was taken in consequence of such letter.

31. From the evidence of this witness PW-18, it is clear that Respondent No. 1 was informed from the office of deputy director

that there was no specific guidelines about temporary roof, sanitary and water connection and no action was taken after information was given about provisional permission to carry out temporary construction of roof, water and sanitary connection.

32. PW-19, is a Sub Inspector with CBI, who had investigated RC No. 11 of 2009. It is not explained how this RC No. 11 of 2009 is connected to present Special Case No. 22 of 2011. He has stated that he has collected documents pertaining to Shop Nos. 7, 8 and 9. He has admitted that when map was prepared in respect of the structure of concerned Shops, the original map of Shop Nos. 7, 8 and 9 was not with him. He has further admitted that during investigation he had not collected the original map of the Shops. He has also admitted that when map was prepared, he had no document to verify whether there was any change in permanent structure. He has also admitted that Respondent No. 1-accused had informed the Head Office of Estate Department that applications were received for permission to make temporary construction. He admitted that Respondent No. 1 had informed CPWD that such applications are received. He has also admitted that with respect to temporary construction, Respondent-accused No. 1 has not practiced any deception. He has admitted that though he investigated regarding losses suffered by the Estate Department in this case, but quantum of the loss could not be ascertained.

33. PW-20, is a Police Inspector with CBI, who had visited the said Shops for inspection during investigation of Crime No. RC-BA1-2009-A006. Once again, it is not explained how this case connected to

present Special Case No. 22 of 2011. This witness has admitted that documents were not produced before him for verification of ownership of the nursing home visited. He further admitted that such documents were not called for during investigation. This witness has volunteered that he was not the Investigating Officer of the case concerned. He has admitted that original plan of nursing home was not seen by him.

34. PW-21 is an Inspector in CBI in RC No. 06 of 2009. This once again appears to be some different case. He had stated that he searched the office of Estate Manager and seized certain files in respect of Shop Nos. 7, 8 and 9. He has admitted that the files which are shown to him do not bear his signature in connection with the seizure. He has admitted that he has seized 58 bunch of papers and files. He has admitted that he has seized two bunches regarding permission of construction of Shop Nos. 7 and 8.

35. It is not explained on behalf of the Applicant as to why Investigating Officers connected with other cases were examined in the present case.

36. In view of above evidence discussed, it is clear that no monetary gain has been proved to have been received by the Respondent No. 1. So far as allegation of illegal construction is concerned, it is important to note that photographs produced in support of the case of illegal construction are not proved. Many witnesses have admitted that original map of Shops are not produced or seen by them. Therefore, there is no reference point to call the

construction illegal. Therefore, unauthorised nature of construction alleged to have been carried out by the Respondent-accused No.2 can not be assumed to be proved beyond reasonable doubt.

37. It is informed that action under PPE Act for eviction of Respondent Nos. 2 to 4 was not undertaken before the present criminal case is filed. Present stage of eviction proceedings are not explained.

38. It has come on record that Respondent No. 1 was only holding charge for 2 months and 22 days and there is no evidence about till what time Respondent No. 1 was holding the charge after 01.07.2008.

39. Following chronology is crucial to note :

Date	Event	Material available
15.02.2007	Respondent-accused No. 1 took charge as Estate Manager	PW-3 has admitted
07.05.2007	Respondent-accused No. 1 left charge of Estate Manager	PW-3 has admitted
08.05.2007	Jagdishlal took charge as Estate Manager	PW-3 has admitted
12.02.2008	Executive Engineer (PW-12) informed Estate Manager regarding alleged encroachment in question by Respondent-accused No. 2	PW-12 has admitted
30.06.2008	Jagdishlal retired.	PW-3 has admitted
01.07.2008	Respondent-accused No. 1 took charge as Estate Manager	PW-3 has admitted
29.07.2008	Alleged permission given by	Deposition of PW-11

Date	Event	Material available
	Respondent-accused No. 1	
Till September 2009	Licence fees of all three Shops were paid	PW-3 has admitted

40. Therefore, it is clear that when the alleged encroachment was reported, the Respondent-accused No. 1 was not even holding charge as Estate Manager. Mr. Jagdishlal was the concerned person. Another person involved i.e. Mr. Jacob Victor, who was allottee of Shop No. 8, is also not made accused. Mr. Jagdishlal and Mr. Jacob have not been made accused for reasons best known to Applicant. This aspect about not making Jagdishlal as accused is also considered by the learned Special Judge in paragraph No. 30 of the impugned judgment.

41. PW-11 who was posted as Executive Engineer, has been examined to prove various letters issued by Respondent-accused No. 1 to the Deputy Director of Estate and to the said witness in respect of permission for temporary roof, water and sanitary connection in Shop Nos. 7 and 8. The letters are at Exhibits-64, 65, 66 and 69. This witness has stated that in response to these letters, he had mentioned about encroachment made by allottees of Shop Nos.7, 8 and 9 and some photographs were sent. This witness has stated that Exh-73 is a copy of letter addressed to the Deputy Director of Estate by Respondent-accused No. 1, informing that he had given 'provisional permission' to allottee of Shop No. 7 for construction of temporary roof, water and sanitary connection. This witness has admitted that he had not come across any letter addressed to the allottee of Shop

No. 7 by the Assistant Estate Manager informing that he was permitted to make temporary construction. This witness has also admitted that he has not seen the lease deed of Shop Nos.7, 8 and 9.

42. It is important to note that the Respondent-accused No.1 had made communication with the Deputy Director Exh-102, asking about policy in respect of permission sought by accused No. 2 and it has come on record that PW-18 had replied vide Exh.-110 that there is no policy in place.

43. It has further come on record that Exh.-101 issued by Respondent-accused No. 1 to the Executive Engineer CPWD asking him to report whether any structural change will occur by construction of accused No.2 and to inform any additional licence fees, to which the Executive Engineer had responded that it is not within his purview.

44. It has further come on record that letter Exh.-92 written by Respondent-accused No. 1 to PW-12 Executive Engineer asking to explore the possibility of the construction of temporary roof, sanitary and water connection in Shop No. 7 of without structural change.

45. On 10.07.2008, by letter at Exh.-66, Respondent-accused No.1 had asked Respondent-accused No.2 to give an undertaking that he will pay additional license fee and or permanent deposit whatsoever fixed by the Government.

46. By letter dated 31.12.2007, Exh.-91 PW-12 Executive Engineer, CPWD informed the Estate manager that almost all Shops in the

shopping complex were sublet and action could be taken against them.

47. The copy of license deed relied upon by the advocate for Respondent-accused Nos. 2 and 3 is perused. It has come on record that the license fees for all the accused was paid upto September 2009. The alleged information about alleged construction was given in February 2008 and alleged permission is given by Respondent-accused No. 1 in July 2008. Therefore, at that time the licence was in existence. Clause 6 of the licence clearly provides that if any addition or alteration or construction is required by licensee, a request to that effect may be made in writing to the Directorate of Estates / Estate Manager, who may consider the same on such terms and conditions as may be deemed appropriate. From the above discussion, it is clear that such communications were made with the Directorate of the Estates not only by the Estate Manager but by the allottee-accused No. 2 also. The response to such communications given from the office of the Directorate was that there is no policy in place. Since the Respondents-accused Nos.1 and 2 had asked for guidance / permission from the Directorate of Estates, it cannot be said that Respondent-accused No. 1 has misappropriated or converted to his own use the property of the government or dishonestly used it or disposed of it or has cheated the government dishonestly inducing the government to deliver the property to any person. Admittedly, Respondent Nos. 2, 3 and 4 were allottees from the government and therefore, the delivery of possession cannot be said to be the result of any inducement.

48. In **Delhi Race Club (Supra)**, the Hon'ble Supreme Court, while dealing with Sections 406 and 420 of IPC, as in the present case, has observed as below. This judgment directly supports the Respondents.

“30. xxxx

Thus, in case of criminal breach of trust, the offender is lawfully entrusted with the property, and he dishonestly misappropriated the same. Whereas, in case of cheating, the offender fraudulently or dishonestly induces a person by deceiving him to deliver any property. In such a situation, both the offences cannot co-exist simultaneously.”

(Emphasis supplied)

49. Many witnesses have admitted that in the entire shopping complex many allottees have raised unauthorised constructions and action is not taken. In such circumstances, there is no explanation offered by the Applicant why the present Respondent No. 1-accused has been singled out by a filing criminal case. No material is brought on record by the Applicant to indicate that similar cases are filed against other Estate Managers in similar circumstances of unauthorised constructions.

50. In view of aforesaid communications it can be seen that the Respondent No. 1 tried to find out policy in case request for temporary construction was made. He was also trying to find out whether proposed temporary construction can be made without structural change.

51. Viewed in the light of what has been observed above, when

impugned order is perused, the learned Special Judge has considered the evidence in detail and has rightly come to conclusion that the alleged offence is not proved beyond reasonable doubt.

52. Considering overall, case for grant of leave is not made out. No interference is required.

53. The application is accordingly dismissed.

(M. M. SATHAYE, J.)