

Salgaonkar

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.12858 OF 2018

Yasmeen Amir Farooquee .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through its Municipal Commissioner
& Ors.

WITH

WRIT PETITION NO.5132 OF 2018

Siyaram Ramai Yadav .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through its Municipal Commissioner
& Ors.

WITH

WRIT PETITION NO.9242 OF 2016

Brijraj Raghupati Kanojia .. Petitioner

Versus

Municipal Corporation of the City of .. Respondents
Thane & Anr.

WITH

WRIT PETITION NO.6697 OF 2016

Mohd.Ashfaque Huzoor Ahmed Khan .. Petitioner
through POA Mrs.Shakeela Khan

Versus

Thane Municipal Corporation .. Respondents
through its Municipal Commissioner
& Ors.

WITH

WRIT PETITION NO.6739 OF 2016

Naseema Begam Nasir Ahmed Ansari .. Petitioners
& Anr.

Versus

Thane Municipal Corporation of City .. Respondents
of Thane through Municipal
Commissioner & Ors.

WITH

WRIT PETITION NO.6738 OF 2016

Shahnoor Shakil Hashmi .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Ors.

WITH

WRIT PETITION NO.6950 OF 2016

Dalichand Nathulalji Patel .. Petitioner

Versus

Municipal Corporation of Thane City .. Respondents
of Thane & Anr..

WITH

WRIT PETITION NO.7460 OF 2016

WITH

INTERIM APPLICATION (ST) NO.16895 OF 2022

Kamruddin Ibrahim Teli .. Petitioner

Versus

The State of Maharashtra & Ors. .. Respondents

WITH**WRIT PETITION NO.7860 OF 2016**

Shaikh Asif Jan Mohammed .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Ors.

WITH**WRIT PETITION NO.7856 OF 2016**

Javed Khaliq Khan .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Ors.

WITH**WRIT PETITION NO.7864 OF 2016**

Sadiqunnisa Ajmal Khan .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Ors.

WITH**WRIT PETITION NO.7857 OF 2016**

Aslam Abdula Agha .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Ors.

WITH

WRIT PETITION NO.7863 OF 2016

Asir Salauddin Inamdar .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Ors.

WITH

WRIT PETITION NO.7861 OF 2016

Inayatulla Kifayatulla Khan .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Ors.

WITH

WRIT PETITION NO.7858 OF 2016

Saikool Tafuzul Hussain Khan .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Ors.

WITH

WRIT PETITION NO.9122 OF 2016

WITH

INTERIM APPLICATION NO.3546 OF 2021

Hidayatulla Mohammad Hasan Khan .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Ors.

WITH**WRIT PETITION NO.9520 OF 2016**

Yacoob Ali Kalu Miya Diwan .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Ors.

WITH**WRIT PETITION NO.9517 OF 2016**

Al-Khair Cafeteria (Fast Food) .. Petitioner
through Mr.Mohammed Satware

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Ors.

WITH**WRIT PETITION NO.4754 OF 2017**

Jamal Ahmed Dawood Shaikh .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Ors.

WITH**WRIT PETITION NO.624 OF 2019**

Shakira Shamshuddin Qureshi .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through its Municipal Commissioner
& Ors.

WITH

WRIT PETITION NO.637 OF 2019

Abdul Hamid Abdul Gani Shaikh .. Petitioner

Versus

Thane Municipal Corporation through .. Respondents
its Municipal Commissioner & Ors.

WITH

WRIT PETITION NO.627 OF 2019

WITH

INTERIM APPLICATION (ST) NO.18829 OF 2022

WITH

INTERIM APPLICATION (ST) NO.18914 OF 2022

Shakeel Ahmed Siraji Abdul Hameed & .. Petitioners
Anr.

Versus

Thane Municipal Corporation through .. Respondents
its Municipal Commissioner & Ors.

WITH

WRIT PETITION NO.625 OF 2019

Mohd.Hussain Saifuddin Patanwala .. Petitioner

Versus

Thane Municipal Corporation through .. Respondents
its Municipal Commissioner & Ors.

WITH

WRIT PETITION NO.626 OF 2019

Dawood Yaqoob Akhoon .. Petitioner

Versus

Thane Municipal Corporation through .. Respondents
its Municipal Commissioner & Ors.

WITH**WRIT PETITION NO.11531 OF 2018**

Amina Sayed Ismail .. Petitioner

Versus

Thane Municipal Corporation .. Respondents
through its Municipal Commissioner
& Ors.

WITH**WRIT PETITION NO.7069 OF 2018**

Anis Munir Khan & Anr. .. Petitioners

Versus

Thane Municipal Corporation .. Respondents
through Municipal Commissioner &
Anr.

WITH**WRIT PETITION NO.11345 OF 2016**

Saifuddin Ismail Darugar .. Petitioner

Versus

The Commissioner, Thane Municipal .. Respondents
Corporation for Greater Thane &
Anr.

WITH**WRIT PETITION NO.6429 OF 2017**

Anil Kumar Maurya .. Petitioner

Versus

Municipal Corporation of Thane City .. Respondents
of Thane

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Mr. Rahul D. Motkari a/w Ms. Manasi Pawar for the Petitioners
in WP/7864/16, WP/7863/16, WP/5132/18, WP/624/19,

WP/637/19, WP/627/19, IAST/18829/22, IAST/18914/22, WP/625/19, WP/626/19 & WP/11531/18.

Mr. Tejas Gupta for the Petitioners in WP/9242/16, WP/6697/16, WP/6739/16, WP/6738/16, WP/6950/16, WP/4754/17, WP/7069/18 & WP/6429/17.

Ms. Eshika Chandan i/b Pegasus Legal for the Petitioners in WP/7865/16, WP/7860/16, WP/7861/16, WP/7857/16 & WP/7858/16.

Adv. A. A. Maniyar for the Petitioner in WP/9122/16.

Mr. Anas E. Shaikh a/w Mr. Tabish Mooman for the Petitioners in WP/12858/18.

Mr. Tejas Gupta for the Petitioners in WP/9242/16, WP/6697/16, WP/6739/16, WP/6738/16, WP/6950/16, WP/4754/17, WP/7069/18 & WP/6429/17.

Ms. Eshika Chandan i/b Pegasus Legal for the Petitioners in WP/7865/16, WP/7860/16, WP/7861/16, WP/7857/16 & WP/7858/16.

Adv. A. A. Maniyar for the Petitioner in WP/9122/16.

Mr. Anas E. Shaikh a/w Mr. Tabish Mooman for the Petitioners in WP/12858/18.

Mr. Mandar Limaye for the Respondent No. 1 in WP/6697/16, WP/6739/16, WP/6738/16, WP/627/19, WP/626/19, WP/11531/18, WP/11345/16, for the Respondent Nos. 2 & 3 in WP/7460/16, WP/9122/16 and for the Respondent Nos. 1 & 2 in WP/7860/16, WP/7856/16, WP/7864/16, WP/7857/16, WP/7863/16, WP/7861/16, WP/7858/16, WP/9520/16 & WP/9517/16.

Mr. Rohit Sathadeo for the Respondent No. 1 & 2 in WP/4754/2017 and for the Respondent Nos. 1 & 3 in WP/637/19.

Mr. Jagdish G. Aradwad (Reddy) for the Respondent No. 1 in WP/12858/18.

Mr. Ajit Pitale a/w Mr. Siddharth Pitale for the Respondent in WP/9242/16 and WP/625/19.

Ms. Chaitrali Deshmukh for the Respondent No. 1 in WP/6429/17

Mr. Anand Kulkarni, Advocate for the Respondent No. 1 in WP/7069/18.

Adv. A. I. Patel, Addl. G.P. with Mr. Karan S. Thorat, 'B' Panel for the State/Respondent.

CORAM: BHARATI DANGRE &
MANJUSHA DESHPANDE, JJ.
DATE : 12th JUNE, 2026

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ORAL JUDGMENT (Per Bharati Dangre, J.)

1. The twenty-eight Writ Petitions filed by the individuals against Thane Municipal Corporation, being impleaded as Respondent No.1, are placed before us and we are called upon to decide the same in the wake of the order passed by the Hon'ble Apex Court on 07/02/2020 in Civil Appeal Nos.1253-1271 of 2020 in the case of ***Thane Municipal Corporation & Ors. Vs. Javed Khaliq Khan etc.***

2. Perusal of the order reveal that the Thane Municipal Corporation approached the Apex Court, being aggrieved by the judgment of the High Court dated 21/06/2018 rendered in several writ petitions filed by the individual respondents, who had structures and shops situated within its jurisdiction. For the purpose of widening of the road, the Corporation demolished certain structures and shops belonging to the respondents and this action was subjected to challenge by filing writ petitions in a group.

The High Court, in the impugned judgment, took into consideration the detailed facts of each of the writ petition and by relying upon the decision in case of ***Sopan Maruti Thopte & Anr. Vs. Pune Municipal Corporation [AIR 1996 Bombay 304]*** permitted the petitioners to reconstruct their respective demolished structures at their cost, by ensuring that they

shall maintain the same area of the structure, which the earlier structure had before its demolition and by using the same material for construction.

However, it was clarified that if the structures are reconstructed that will not confer any legality on the structures and it will be open for the Municipal Corporation to take action of demolition, if it is found to be in violation of the norms prescribed by the Corporation. However, the respondents were given liberty to make representation to the Corporation seeking compensation and the Corporation was directed to decide the said claim for compensation.

3. The argument of the Corporation that the demolition was warranted for the purpose of road widening was appreciated in contradiction of the stand of the respondents that they were carrying out their livelihood from the structures and shops which were demolished, without any prior notice.

The Corporation placed heavy reliance upon the decision in the case of *Municipal Corporation of Greater Mumbai & Ors. Vs. M/s Sunbeam High Tech Developers Private Ltd. [2019(14) SCALE 378]*, where certain guidelines were issued while permitting the Corporation to take appropriate action after due notice with regard to the structures, which were not constructed, once the order of the High Court was set aside, including the directions of reconstruction. By placing reliance upon the directions contained in paragraph 23 of the decision, the Apex Court was of the view that the directions issued by the High Court cannot be sustained and they were set aside.

As regards the entitlement of the individual respondents for being entitled for alternate accommodation, either of a

shop or structure, which according to the Corporation was not their entitlement, the Apex Court directed that it would be appropriate to revive the writ petitions before the High Court for fresh consideration and it was also open for the parties to make their submissions with regard to their claim of alternate accommodation or of compensation.

4. That is how the Petitions are listed before us.

5. Yesterday, we had heard the learned counsel for the Petitioners and we requested learned counsel Mr.Mandar Limaye, representing the Corporation, to take appropriate instructions, as some of the Petitioners were clueless about the current position.

Today, Mr.Limaye has reverted back alongwith necessary information and he has divided the Petitions broadly into four categories and requested for disposal of all the Writ Petitions in the wake of the information furnished by him.

Mr.Limaye has placed before us the chart of the Petitions by specifying the category in which each of it would fall and, since the counsel for the Petitioners did not express any objection for disposing of the Writ Petitions in the wake of the statement made by Mr.Limaye on behalf of the Thane Municipal Corporation, by taking on record the chart, we deem it appropriate to dispose of all the Writ Petitions.

6. In the first category of ten Petitions, where the Petitioners are permitted to construct a temporary shed by the High Court and the Petitioners have constructed temporary structures.

In all the following Writ Petitions, a temporary shed of the Petitioners is standing on the site and they are conducting their avocation/business from the said construction.

In this group of matters, since the Corporation does not have any concrete proposal, whether to remove the structures for road widening purpose, a statement is made on behalf of the Corporation, that it shall follow due process of law, if the land is required for construction of the DP Road in future and in such contingency, the Petitioners would be eligible for being rehabilitated in accordance with the prevailing policy, subject to their eligibility.

The details of the Petitions alongwith the names of the parties and the description of the property covered in this category are as below :-

Sr. No.	Petition No.	Name of the Petitioner	Description of the property
1	7856/2016	Javed Khaliq Khan	Shop No. 1 situated at Kausa Shopping Centre, Near Caltex Petrol Pump, Tanwar Nagar Road, Kausa, Thane admeasuring 200 sq. ft.
2	7857/2016	Aslam Abdul Agha	A-1 Pan Shop situated at Kausa Shopping Centre, Near Caltex Petrol Pump, Tanwar Nagar Road, Kausa, Thane admeasuring 200 sq. ft.
3	7858/2016	Mrs. Saikool Tafuzul Hussian Khan	Petrol Pump, Tanwar Nagar Road, Kausa, Thane admeasuring 400 sq. ft.

4	7860/2016	Shaikh Asif Jan Mohammed	Shop No. 2 situated at Kausa Shopping Centre, Near Caltex Petrol Pump, Tanwar Nagar Road, Kausa, Thane admeasuring 200 sq. ft.
5	7861/2016	Inayatulla Kifayatulla Khan	Gala No. 1 situated at Kausa Shopping Centre, Near Caltex Petrol Pump, Tanwar Nagar Road, Kausa, Thane admeasuring 264 sq. ft.
6	6429/2017	Anil Kumar Maurya	House No. 384, Survey No. 181, Hissa No. 1, Shakti Nagar, Near Padal Colony, Opp. Suryavanshi Apartments, Mumbai-Pune Road, Mumbra, Thane admeasuring 217.20 sq. ft.
7	11345/2016	Saifuddin Ismail Darugar	Tanwar Chicken Shop, Shop No. 18, Tanwar Nagar, Mumbra, Thane admeasuring 11'8" x 16'.
8	627/2019	Shakil Ahmed Siraj Abdul Hameed	Tanwar Chicken Shop Nos. 1 & 2, Opposite Padal Colony, Near Sharada More Chawl, Amrut Nagar, Mumbra, Survey No. 82, Hissa No. 1 admeasuring 875 sq. ft.
9	9242/2016	Brijraj Raghupati Kanojia	Gala No. 31 situated in Shankar Mandir Trust Chawl, Near Shankar Mandir Gate, Mumbai-Thane Road.
10	6950/2016	Dalichand Patel	Shop No. 1 constructed on Plot No. 50, Shankar Mandir Trust Chawl, Near Shankar Mandir Gate, Mumbra admeasuring 200 sq. ft.

Interim Application No.18914 of 2022 in Writ Petition No.627 of 2019 is taken out bringing the legal heirs on record and the same is allowed by condoning the delay.

The aforesaid Writ Petitions are disposed of, by recording the statement made by the Corporation.

7. In the second category, there are eight Petitions, where the Corporation has filed an affidavit stating that the Petitioners shall be handed over the alternate gala admeasuring 70 to 80 sq.ft. within a period of one month. A statement is also made in the affidavit that the gala is ready to be handed over and this would be by way of alternative accommodation for the shops/galas of the respective Petitioners, being demolished by the Corporation.

This category covers the following Petitions.

Sr. No.	Petition No.	Name of the Petitioner	Description of the property
1	4754/2017	Jamal Ahmed Dawood Shaikh	Shop No. 12 Part-I situated at Habib Manzil, Survey No. 223/4, Hissa No. 42, Opp. Darul Falah Masjid, Kausa, Thane admeasuring 200 sq. ft.
2	7864/2016	Sadiqunnisa Ajmal Khan	House No. 323/2 situated at Talav View, Near TMC Gate, Old Mumbai-Pune Road, Tanwar Nagar, Kausa, Thane admeasuring 850 sq. ft.
3	6697/2016	Mohd. Ashfaque Huzoor Ahmed Khan	Shop No. 14, New Royal Chicken Shop, Ground Floor, H.G. House No. 41, Near Mustafa Apartment, Kausa, Thane.

4	6738/2016	Smt. Shahnoor Shakil Hashmi	Shop No. 7 situated at H.G. House No. 41, Near Mustafa Apartment, Kausa, Thane admeasuring 120 sq. ft.
5	6739/2016	Smt. Naseema Begam Nasir Ahmed Ansari	Shop No. 2, Survey No. 158, Hissa No. 2, Ground Floor, Kausa, Thane admeasuring 200 sq. ft.
6	9517/2016	Al-khair cafeteria (Fast Food Shop) through its sloe prop. Mr. Mohammed Arif Abbas Satware	Shop No. 4, Ground Floor, Survey No. 61, Hissa No. 1 & 2, Near Tanwar Garden Compound, Kausa, Thane admeasuring 257 sq. ft.
7	9520/2016	Yacoob Ali Kalu Miya Diwan	Shop No. 2, Tanwar Garden Compound, Survey No. 61, Hissa No. 1 & 2, Near Mohammed Hussain Sume Garden, Kausa, Thane admeasuring 904.39 sq. ft.
8	7069/ 2018	Anis Munir Khan & Anr.	Shop No. 4, Ground Floor, Survey No. 61, Hissa No. 1 & 2, Near Mohammed Hussain Sume Garden, Kausa, Thane.

The counsel appearing for the Petitioners in Writ Petition Nos.6697, 6738 and 6739 of 2016, however, makes a request to the Court that the Petitions should be kept pending, so that the Petitioners, upon being allotted galas, will report to the Court whether they are satisfied with the allotment and whether the galas allotted is but for being occupied.

We do not accede to the said request for the reason that the Petitions are pending for more than a decade and in the light of the order of the Hon'ble Apex Court, when the Corporation has come up before us with a stand that these

Petitioners are entitled for alternate accommodation, as their shops were demolished and they had not reconstructed the same, we feel it appropriate that the Petitioners shall take possession of the galas and then they can raise a grievance of whatsoever nature, by filing appropriate proceedings, as the doors of the Court are always open for them.

8. In the third category, Mr.Limaye has categorised seven Petitions, where no decision is yet taken upon the Petitioner's claim and a statement is made that the claim of the Petitioners in the seven Petitions shall be considered in accordance with the prevailing policy and upon verification of their eligibility, the alternate accommodation shall be allotted to them. Though in these cases, no time limit has been specified by the Corporation, we direct it to consider the claim of the Petitioners in all the seven Petitions within a period of eight weeks from today.

The details of the Petitions covered in this category are as below :-

Sr. No.	Petition No.	Name of the Petitioner	Description of the property
1	637/2019	Abdul Hamid Abdul Gani Shaikh	Gala No. 1, Tin Chawl No. 2, Fakhrabai Ladkawala Chawl, Bearing Survey No. 150, Hissa No. 02, Bombay-Pune Road, Kausa, Thane admeasuring 220 sq. ft.
2	625/2019	Mohammed Hussain Saifuddin Patanwala	Gala No. 3, Tin Chawl No. 2, Fakhrabai Ladkawala Chawl, Bearing Survey No. 150, Hissa No. 02, Bombay-Pune Road, Kausa, Thane admeasuring 200 sq. ft.

3	626/2019	Dawood Akhoon	Yaqoob	Gala No. 1, Tin Chawl No. 1, Fakhrabai Ladkawala Chawl, Bearing Survey No. 150, Hissa No. 02, Bombay-Pune Road, Kausa, Thane.
4	11531/2018	Amina Ismail	Sayed	Shop No. 12, D & E, Ground Floor of Habib Manzil, H.G. House No. 42, Opp. Darul Falah Masjid, Kausa, Thane admeasuring 200 sq. ft.
5	12858/2018	Yasmeen Farooquee	Amir	Gala No. 2 in Shankar Mandir Trust Chawl, Bearing H.G. House No. 02, Bombay-Pune Road, Kausa, Thane admeasuring 150 sq. ft.
6	624/2019	Shakira Shamshuddin Qureshi		Gala No. 4, Tin Chawl No. 3, Fakhrabai Ladkawala Chawl, Survey No. 73, Hissa No. 59, Bombay-Pune Road, Kausa, Thane.
7.	5132/2018	Siyaram Yadav	Ramai	Kashi Sweet & Farsan Mart, Shop No.1, Haider Badar Colony, Near Mustafa Apartment, Mumbra admeasuring 300 sq.ft.

9. There are two Petitions, namely, Writ Petition Nos.7863 and 7460 of 2016, where Mr.Limaye for the Corporation make a statement that the allotment of the alternate galas is already made.

The counsel representing the Petitioner in Writ Petition No.7460 of 2016 submits that the original Petitioner- Kamruddin Ibrahim Teli has demised on 29/05/2020 and he has taken out Interim Application (St) No.16895 of 2022 for bringing his legal heirs on record.

We allow the said Application and permit the legal heirs to be brought on record.

The counsel has some grievance that the allotment that is shown by the Corporation is not for Shop No.1 at Kadar Palace Hotel, being described as admeasuring 8' x 10', but it is for some other premises. If the Petitioners (legal heirs of Kamruddin Ibrahim Teli) have any grievance in this regard, they are at liberty to file a fresh Writ Petition, as we do not intend to keep these Petitions pending.

In the wake of the above, Writ Petition Nos. 7863 and 7460 of 2016 are disposed of.

10. As far as Writ Petition No.9122 of 2016 filed by the Petitioner-Hidayatulla Mohammad Hasan Khan, involving Shop No.1 situated at Kausa Shopping Centre, Kausa, Thane admeasuring 450 sq.ft. is concerned, it is the stand of the Corporation that the Petitioner is one of the owners of the land beneath Shop No.1 and the Corporation agrees that he is entitled for TDR to the extent of 400 sq.ft., but since in the said property, there are co-owners, the Corporation shall hand over the TDR to the Petitioner, subject to the No-objection Certificate obtained from the co-owners or in proportion to his share. Another stipulation is the compliance of UDCPR, which is imperative.

The counsel for the Petitioner makes a grievance that the insistence of No-objection Certificate from the co-owners is unreasonable, but we do not find any justification to waive this condition, but in future, if any contingency arises, as a result of which the Petitioner is unable to avail the benefit, he is at

liberty to approach this Court, by filing the appropriate proceedings.

11. In light of the above order, all the Writ Petitions, alongwith pending Applications, if any, stand disposed of.

No order as to cost.

(MANJUSHA DESHPANDE, J.)

(BHARATI DANGRE, J.)