

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO. 14195 OF 2016

Tulja Bhavani Mandir		
Through its Member	...	Petitioner
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 2719 OF 2017**

Dilip Dattu Datir & Anr.	...	Petitioners
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 2720 OF 2017**

Dilip Dattu Datir & Anr.	...	Petitioners
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 2721 OF 2017**

Dilip Dattu Datir & Anr.	...	Petitioners
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 2722 OF 2017**

Dilip Dattu Datir & Anr.	...	Petitioners
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 2723 OF 2017**

Dilip Dattu Datir & Anr.	...	Petitioners
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 2724 OF 2017**

Dilip Dattu Datir & Anr.	...	Petitioners
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 2725 OF 2017**

Dilip Dattu Datir & Anr.	...	Petitioners
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 2726 OF 2017**

Dilip Dattu Datir & Anr.	...	Petitioners
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 2727 OF 2017**

Dilip Dattu Datir & Anr.	...	Petitioners
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 2728 OF 2017**

Dilip Dattu Datir & Anr.	...	Petitioners
V/s.		

Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 2729 OF 2017**

Dilip Dattu Datir & Anr. ... Petitioners

V/s.

Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 2730 OF 2017**

Dilip Dattu Datir & Anr. ... Petitioners

V/s.

Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 2731 OF 2017**

Dilip Dattu Datir & Anr. ... Petitioners

V/s.

Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 2732 OF 2017**

Dilip Dattu Datir & Anr. ... Petitioners

V/s.

Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 2733 OF 2017**

Dilip Dattu Datir & Anr. ... Petitioners

V/s.

Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 2734 OF 2017**

Dilip Dattu Datir & Anr. ... Petitioners
V/s.
Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 3186 OF 2017**

Mahadev Mandir ... Petitioner
V/s.
Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 3187 OF 2017**

Saibaba Mandir ... Petitioner
V/s.
Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 3188 OF 2017**

Guru Ravidas & Ors. ... Petitioners
V/s.
Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 3189 OF 2017**

Maharshi Valmik Rushi Mandir ... Petitioner
V/s.
Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 3190 OF 2017**

Khanderao Maharaj Mandir ... Petitioner
V/s.
Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 3191 OF 2017**

Siddhivinayak Ganesh Mandir	...	Petitioner
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 3192 OF 2017**

Mahadev Mandir	...	Petitioner
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 14197 OF 2016**

Kalanagar Kala Krida Shaikshanik & Sanskrutik Mitra Mandal	...	Petitioner
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 14215 OF 2016**

Shri Dilip Dattu Datir & Anr.	...	Petitioners
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**AND
WRIT PETITION NO. 4142 OF 2017**

Vithal Rukmini Mandir & Ors.	...	Petitioners
V/s.		
Nashik Municipal Corporation & Ors.	...	Respondents

**WITH
WRIT PETITION NO. 13618 OF 2016**

Nibban Bahu Uddeshiya Samajik Sanstha	...	Petitioner
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V/s.
State of Maharashtra & Ors. ... Respondents

**WITH
CIVIL APPLICATION NO. 472 OF 2017
IN
WRIT PETITION NO. 13618 OF 2016**

Mr.Prashant Pandurang Pawar & Ors. ... Applicants

In the matter between

Nibban Bahu Uddeshiya Samajik Sanstha ... Petitioner

V/s.
State of Maharashtra & Ors. ... Respondents

**WITH
WRIT PETITION NO. 13622 OF 2016**

Shriram Bahu-Uddeshiy Sarvajnik
Mitra Mandal ... Petitioner

V/s.
Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 13624 OF 2016**

Shriram Bahu-Uddeshiy Sarvajnik
Mitra Mandal ... Petitioner

V/s.
Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 13639 OF 2016**

Ashtavinayak Nagar Mitra Mandal ... Petitioner

V/s.
Nashik Municipal Corporation & Ors. ... Respondents

**WITH
WRIT PETITION NO. 13715 OF 2016**

Shree Siddhivinayak Sanskrutik Kala &
Krida Mitra Mandal

... Petitioner

V/s.

Nashik Municipal Corporation & Ors.

... Respondents

- Mr.S.R.Nargolkar with Mr.Ketan Joshi, Mr.Swapnil Mohite i/b. ERGO JURIS for the Petitioner(s).
- Mr.A.B. Vaigyani, Government Pleader with Ms.Reena Salunkhe, AGP for the State.
- Mr.M.L. Patil for Respondent Nos.1 & 2 (Corporation) in all matters except WP/13618/2016.
- Mr.M.L. Patil for Respondent No.2 (Corporation) in WP/13618/2016.
- Mr.H.M. Inamdar with Mr.Sanjay Rokade & Ravi Gaikwad for Petitioners in WP/13618/2016.
- Mr.P.D. Patil for Applicant in CAW/472/2017.

**CORAM : NARESH H. PATIL &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 17th APRIL, 2017.

P.C. :

1] The Petitioners claimed to be in charge of the respective temple(s) administration and/or looking after the religious activities going on in the subject temples.

2] The Corporation issued public notices and even on website publication was made consequent to the judgment delivered by this Court in PIL No. 104 of 2010 and the Government Resolution issued on 5th May, 2011 and 18th November, 2015. The intention of

the Corporation was to make them aware that unauthorized religious structures on public places will be demolished. During the course of hearing an issue was raised before this Court that whether open space in private sanctioned layout of a housing society would amount to public place. It is submitted that the Petitioner(s) were not heard by the Corporation and appropriate notices under Section 53 of the MRTP Act were also not issued.

3] Learned counsel for the Corporation submits that the Petitioner(s) have no locus to raise such issue as they are neither the owners of such property nor representatives of such society in whose layout/open premises the Petitioner(s) are said to be looking after the temple administration. It is submitted by the learned counsel for the Corporation that the Corporation has discharged its responsibility by pasting the notice on the walls of the temple(s) and giving due publicity on the website. In spite of giving the notice, none of the society representatives came forward to lodge any objection, contested the matter or approached this Court. Thus, in this view of the matter, the counsel submits that these Petition(s) deserve to be dismissed, allowing the Corporation to demolish the temple(s)/structure.

4] Learned Government Pleader has referred to paragraph 6 (page 48) and the order clause (t) of the order in Public Interest Litigation No.104 of 2010 dated 1st October, 2016.

“6. As far as the procedure to be followed for categorization is concerned, it will be necessary to make a reference to the Paragraph Nos.3 and 4 of the said GR.”

....

Order

(a)

“(t) We may clarify here that the policy of tolerating illegal structures made before the cut off date incorporated in the said GR dated 5th May 2011 is applicable only to the illegal religious structures made on public properties. The policy incorporated in the said GR is not applicable to the illegal religious structures made on private properties. Therefore, the State and the Planning Authorities cannot extend the protection of the said GR to the illegal religious structures made on private properties. They shall proceed to demolish the same in accordance with the law unless a particular structure is protected by any other exiting valid policy”.

5] Without entering into the issue in respect of the locus of the Petitioner(s) and or as to whether the open space in a sanctioned layout of a housing society is public space or not, we find it appropriate to observe that the Corporation should issue notices to the Secretary of the concerned Societies and after serving such

notices by referring to the judgment of this Court, GR and the provisions of the MRTP Act, appropriate action be resorted to in accordance with law. It is informed that these temple(s) are situated in the premises since last many years. We do not express any opinion on the same.

6] In cases where Society was not formed, the Corporation would issue public notice in widely circulated newspaper and shall paste the notice on the conspicuous part of such structures.

7] The Corporation/Authorities, after completing this exercise shall deal with individual cases and pass a brief reasoned order. The Societies shall be intimated that despite service of notice, if Societies failed to remain present before the Corporation, the Corporation is entitled to proceed with the matter in accordance with available record and carrying out necessary/required enquiry into the matter.

8] It is clarified that we have not expressed any opinion on the merits. The Corporation shall complete this exercise by the month end of May-2017. Till then status-quo as on today shall be maintained.

9] While dealing with the issue, the Corporation shall deal with the issue as to whether subject temple(s) are situated in a public place.

10] In case any adverse order is passed, the same shall not take effect for two weeks from the date of service of copy of order.

11] All Writ Petition(s) disposed of.

12] In view of disposal of Writ Petition, nothing survives in Civil Application(s) and the same stands disposed of.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[NARESH H. PATIL, J.]