

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.230 OF 2020**

Mustafa Ismail Patel of M/s. New Shalimar
Family Restaurant ... Petitioner
versus
The State of Maharashtra & Ors. ... Respondents

Mr. Atul Damle, Senior Advocate with Mr. Shraddha Vhaval, Ms. Suchita Oval i/by
Mr. Hassnain Kaazi Sayyed, for Petitioner.
Ms. M.P.Thakur, AGP, for State.
Mr. Ashutosh Kulkarni with Mr. Sarthak Diwan for Respondent Nos.3 and 4
Mr. Vikram Tarepatil, for Respondent No.5.

**CORAM: S.J. KATHAWALLA &
B.P.COLABAWALLA, JJ.**

DATE: 15th JANUARY, 2020

P.C.:

1. By the above Writ Petition, the Petitioner seeks direction against the Respondents not to take any coercive action with regard to the structure of the Petitioner i.e. House No.574, Pedhar Phata, Mumbra-Panvel Road, PO Pendhar, Tal Panvel, Dist. Raigad, from where the Petitioner runs a restaurant by the name “Shalimar Family Restaurant”.
2. Admittedly, in view of the orders passed in Public Interest Litigation Nos.80 of 2013 and 138 of 2012, CIDCO by its letter dated 27th December, 2019 has published a schedule of the demolition of unauthorized structure/constructions. The date fixed for demolition of unauthorized structure/constructions in Navade Taloja area is 16th

January, 2020.

3. The learned Senior Advocate for the Petitioner states that the structure of the Petitioner is an authorized structure and ought not to be demolished. The land on which the structure is put up by the Petitioner, belongs to CIDCO. We therefore, called upon the learned Senior Advocate for the Petitioner to show us the documents showing the allotment of the said land to the Petitioner by CIDCO. In response, he has drawn our attention to a purported agreement titled “Kayam Kharadi Pavati” (Receipt of Permanent Sale) dated 18th February, 2000 executed by one Mr. Shabbir Ahmed Abdul Latif Patel. The same is an unregistered document. The Petitioner has not produced any document to show that the said land was allotted by CIDCO to the said Mr. Shabbir Ahmed Abdul Latif Patel from whom he has purportedly purchased the plot on which the unauthorized structure is standing. No reasonable or prudent person would buy a property belonging to an authority such as CIDCO without first confirming whether the seller has been allotted the subject plot/land by CIDCO. The learned Senior Advocate has now relied on the assessment records to show that the said structure has been assessed. It is trite that a mere assessment of a structure does not prove its ownership in favour of the assessee. Again when this Court inquired from the learned Senior Advocate appearing for the Petitioner to show the permission obtained from CIDCO to put up the structure, he concedes that there is no such permission from CIDCO. He however, states that he has obtained permission from the

Grampanchayat. If the plot of land on which the unauthorized structure is carried out belongs to CIDCO, in our view mere NOC from the Grampanchayat will not be adequate to assist the Petitioner.

4. In the above circumstances, in our view, no interference is required from this Court under Article 226 of the Constitution of India. The Writ Petition is therefore, dismissed.

(B.P.COLABAWALLA, J.)

(S.J.KATHAWALLA, J.)