

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

WRIT PETITION NO. 3891 OF 2021

Ayubali Ibrahim Khanbande & Anr.

...Petitioner

V/S

The Municipal Commissioner Thane Municipal
Corporation & Ors

... Respondents

Mr. A. A. Maniyar i/b. Adv. S. N. Maldar for the Petitioner.

Adv. S. M. Oak i/b. S. A. Joshi for the occupier.

Adv. M. V. Limay a/w. Adv. Kettaki Karale for the Respondent Nos 1
& 2

Mr. A. A. Alaspurkar, AGP for the Respondent-State

**CORAM : A. A. SAYED &
 S. G. DIGE, JJ**

DATED : 16th NOVEMBER, 2021

P.C.:

The Petition is filed seeking the following reliefs:

(a) This Hon'ble Court may kindly be pleased to issue Writ of Mandamus or any other appropriate Writ, direction or Order in the nature of Mandamus under section 226 of the Constitution of India directing and ordering the Respondent No. 1 & 2 to forthwith demolish and pull down the illegal building under construction beside Jama Masjid Old Mumbai Pune Road, Kalwa Naka, Kalwa (West) Thane 400605, within the limits of Thane Municipal Corporation.

(b) This Hon'ble Court may kindly be pleased to issue Writ of Mandamus or any other appropriate Writ, direction or Order in the nature of Mandamus under Article 226 of the Constitution of India directing and ordering the Respondent No. 1 and 2 to forthwith restrain construction

of unauthorized building situated at besides Jama Masjid, Old Mumbai Pune Road, Kalwa Naka, Kalwa (West), Thane 400605 within the limits of Thane Municipal Corporation.

(c) Ad-interim & interim relief in terms of prayer clause (b)

2. Learned Counsel for the Respondent-Corporation states that the Respondent-Corporation has already issued notices under sections 267 (stop work notice) and 260 (demolition notice) of the MMC Act to Abdul Majid Bharmar, who is carrying out the unauthorised construction.

3. We accept the statement of learned Counsel for the Respondent-Corporation that the Respondent-Corporation shall take the aforesaid notices to their logical conclusion by passing appropriate orders expeditiously after hearing the concerned parties.

4. We are informed that the flat purchasers of the building being constructed have already filed Regularization Applications. This fact can be pointed out to the Respondent-Corporation at the time of filing Reply to the notices and at the time of hearing.

5. In view of the above, the Petition need not be kept pending. Accepting the statement of learned Counsel for the Respondent - Corporation and taking the copies of the two notices on record, we dispose of the Writ Petition.

6. The Petitioner as well as the flat purchasers, whom learned Counsel is representing (though not the parties to the Petition) may appear before the concerned Designated Officer of Thane Municipal Corporation on 29th November, 2021 at 11 a.m.

(S. G. DIGE, J.)

(A. A. SAYED, J.)