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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
SUO MOTU PUBLIC INTEREST LITIGATION NO.1 OF 2020**

High Court on its own motion (In the matter of Jilani Building at Bhiwandi)	...	Petitioner
Versus		
Bhiwandi Nizampur Municipal Corporation & Ors.	...	Respondents

**WITH
INTERIM APPLICATION NO. 2073 OF 2021
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO.1 OF 2020**

Sejal Shakti Realtors LLP	...	Applicant
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In the matter between:

High Court on its own motion (In the matter of Jilani Building at Bhiwandi)	...	Petitioner
Versus		
Bhiwandi Nizampur Municipal Corporation & Ors.	...	Respondents

**WITH
INTERIM APPLICATION NO. 2072 OF 2021
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO.1 OF 2020**

The District Collector, Mumbai	...	Applicant
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In the matter between:

High Court on its own motion (In the matter of Jilani Building at Bhiwandi)	...	Petitioner
Versus		
Bhiwandi Nizampur Municipal Corporation & Ors.	...	Respondents

**WITH
INTERIM APPLICATION NO. 2605 OF 2021
IN
INTERIM APPLICATION NO.1734 OF 2021
AND
INTERIM APPLICATION NO. 1735 OF 2021
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO.1 OF 2020**

Mohammed Afzal Yusuf Rindani
& Ors. ... Applicants

In the matter between:

High Court on its own motion
(In the matter of Jilani Building
at Bhiwandi) ... Petitioner

Versus

Bhiwandi Nizampur Municipal
Corporation & Ors. ... Respondents

**WITH
INTERIM APPLICATION ST. NO. 20610 OF 2021
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO.1 OF 2020**

Bhushan Jayantilal Gandhi ... Applicant

In the matter between:

High Court on its own motion
(In the matter of Jilani Building
at Bhiwandi) ... Petitioner

Versus

Bhiwandi Nizampur Municipal
Corporation & Ors. ... Respondents

**WITH
INTERIM APPLICATION NO. 2483 OF 2021
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO.1 OF 2020**

Lashkaria Housing and Infrastructure
Pvt. Ltd. ... Applicant

In the matter between:

High Court on its own motion
(In the matter of Jilani Building
at Bhiwandi) ... Petitioner

Versus

Bhiwandi Nizampur Municipal
Corporation & Ors. ... Respondents

**WITH
INTERIM APPLICATION NO. 2025 OF 2021
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO.1 OF 2020**

Shahnawaz Javed Mumtani & Ors. ... Applicants

In the matter between:

High Court on its own motion
(In the matter of Jilani Building
at Bhiwandi) ... Petitioner

Versus

Bhiwandi Nizampur Municipal
Corporation & Ors. ... Respondents

**WITH
INTERIM APPLICATION NO. 1734 OF 2021
AND
INTERIM APPLICATION NO. 1735 OF 2021
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO.1 OF 2020**

The Municipal Corporation of
Greater Mumbai ... Applicant

In the matter between:

High Court on its own motion
(In the matter of Jilani Building

at Bhiwandi)	...	Petitioner
Versus		
Bhiwandi Nizampur Municipal Corporation & Ors.	...	Respondents

**WITH
INTERIM APPLICATION NO. 2584 OF 2021
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO.1 OF 2020**

Maklai Timber and Plywood Company ...	Applicant
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In the matter between:

High Court on its own motion (In the matter of Jilani Building at Bhiwandi)	...	Petitioner
Versus		
Bhiwandi Nizampur Municipal Corporation & Ors.	...	Respondents

**WITH
INTERIM APPLICATION NO. 2102 OF 2021
IN
SUO MOTU PUBLIC INTEREST LITIGATION NO.1 OF 2020**

Mohammed Afzal Yusuf Rindani & Ors.	...	Applicants
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In the matter between:

High Court on its own motion (In the matter of Jilani Building at Bhiwandi)	...	Petitioner
Versus		
Bhiwandi Nizampur Municipal Corporation & Ors.	...	Respondents

**WITH
CRI. PUBLIC INTEREST LITIGATION ST. NO.2617 OF 2020**

Sanjay Tanaji Gurav	...	Petitioner
Versus		
The State of Maharashtra & Ors.	...	Respondents

**WITH
WRIT PETITION ST. NO. 15917 OF 2019**

Smt. Sugandha Dhanjay Purav	...	Petitioner
Versus		
Thane Municipal Corporation, Through the Municipal Commissioner & Ors.	...	Respondents

Mr. Ajai Fernandes a/w Sarthak Diwan i/by Sarthak Diwan and Associates for applications in I.A. Nos.2102, 2605 and 2025 of 2021.

Mr. N. V. Walawalkar, Senior Advocate a/w Mr. Rajesh Patil and Om Suryavanshi for applicant in I.A. Nos.1734 and 1735/2021.

Mr. Milind B. Nar for applicant in I.A. No. 2073 of 2021.

Mr. Satish Muley a/w Sajid Qureshi for applicant in I.A.No.2483 of 2021.

Mr. Nitin Deshpande for applicant in I.A. St. No.20610 of 2021.

Ms. Sucheta D. Ghaisas for petitioner in WP St. No.15917/2019.

Mr. A. Y. Sakhare, Senior Advocate a/w Om Suryavanshi for respondent-MCGM in SMPIL No.1 of 2020.

Mr. Ram Apte, Senior Advocate i/by Manoj J. Bhatt for respondent no.1 – BNMC.

Mr. Jagdish Aradwad (Reddy) a/w Abhijit Patil for respondent nos.2 and 3.

Mr. R. S. Apte, Senior Advocate i/by Mandar Limaye for respondent no.5-TMC.

Ms. Swati Sagvekar for respondent no.6-VVCMC.

Mr. Rupesh Dubey i/by Sandeep Marne for respondent no.8.

Ms. Prerana Dhoke i/by P. G. Land for respondent no.11-MHADA.

Mr. Nitin V. Gangal a/w Prerna Shukla for respondent no.12-CIDCO.

Ms. Kavita N. Salunke for respondent no.13 – MMRDA.

Mr. Prashant Kamble i/by A. S. Rao for KDMC and Panvel Municipal Corporation.

Mr. Abhijit Patil i/by Vijay D. Patil for Ulhasnagar Municipal Corporation.

Mr. P. P. Kakade, Govt. Pleader a/w Mr. B. V. Samant, AGP and A. R. Patil, APP for the State.

Mr. Mangesh Kambli, Jr. Engineer (B & F) "C" Ward present.

**CORAM: DIPANKAR DATTA, CJ &
M. S. KARNIK, J.**

DATE: NOVEMBER 15, 2021

PC:

INTERIM APPLICATION NOS. 2102 & 2605 OF 2021:

1. On board, *inter alia*, are two interim applications (Interim Application Nos.2102 & 2605 of 2021) filed by the occupants of Gulistan Building (hereafter "the said building", for short). The said building, which is a G+9 structure, is a wholly unauthorized building. It has been constructed without any building plan

having been sanctioned by the Municipal Corporation of Greater Mumbai (hereafter "the Corporation", for short) and obtained from it by the persons responsible therefor and hence, is liable to be demolished in terms of previous orders of this Court.

2. It would be proper to notice the prayers in Interim Application No. 2102 of 2021. The same read as follows: -

(a) that this Hon'ble Court may be pleased to join the Applicants as party Respondents to the above Interim Application No.1734/2021 and Interim Application No. 1735/2021 in Suo motu Public Interest Litigation No. 1 of 2020 or in the alternative the Applicants may be permitted to intervene in the above Petition;

(b) that pending the hearing and final disposal of the above Petition, the Municipal Corporation of Greater Mumbai may be directed to consider the proposal submitted by the Applicants to consider the said Gulistan building as Transit building for the purpose of development of said adjoining plots bearing Cadastral Survey Nos. 2575 and 2577 of Bhuleshwar division, C-Ward, situated at the corner of Ghoghari Mohall and Panjrapole Street now known as Ismail Curtey Road, within the Island City and Registration District of Mumbai;

(c) that in alternative to prayer Clause (b) above, this Hon'ble Court may be pleased to direct the Municipal Corporation of Greater Mumbai to consider and approve the Plans submitted by Builders/Star Enterprises for redevelopment and amalgamation of the said plots

bearing Cadastral Survey Nos. 2575, 2576 and 2577 of Bhuleshwar Division situate at the corner of Ghoghari Mohall and Panjrapole Street now known as Ismail Curtey Road, within the Island city and Registration District of Mumbai including for construction of Transit building;

(d) that pending the hearing and final disposal of the above Application, this Hon'ble Court may be pleased to extend the time for vacating the Gulistan building for such reasonable period of time as may be required to enable the occupants of Gulistan building to be shifted to Transit Accommodation or rehabilitated in the new building to be constructed on plot bearing Cadastral Survey Nos. 2575, 2576 and 2577 of Bhuleshwar Division situate at the corner of Ghoghari Mohall and Panjrapole Street now known as Ismail Curtey Road, within the Island city and Registration District of Mumbai.

The prayers in the other application, i.e., Interim Application No. 2605 of 2021, read as follows: -

(a) that this Hon'ble Court be pleased to direct the Municipal Corporation of Greater Mumbai to consider and approve the Plans submitted by the Respondent Nos.2 & 3 for redevelopment and amalgamation of the said plots bearing Cadastral Survey Nos. 2575, 2576 and 2577 of Bhuleshwar Division situate at the corner of Ghoghari Mohall and Panjrapole Street now known as Ismail Curtey Road, within the Island city and Registration District of Mumbai including for construction of Transit building.

(b) that pending the hearing and final disposal of the above Application, this Hon'ble Court may be pleased to extend the time for vacating the Gulistan building for minimum 24 months and/or such reasonable period of time as may be required to enable the occupants of Gulistan building to be shifted to Transit Accommodation or rehabilitated in the new building to be constructed on plot bearing Cadastral Survey Nos.2575, 2576 and 2577 of Bhuleshwar Division situate at the corner of Ghoghari Mohall and Panjrapole Street now known as Ismail Curtey Road, within the Island city and Registration District of Mumbai.

3. Mr. Fernandes, learned advocate appearing for the applicants has submitted that the owner(s) of the said building had suppressed that the same is an unauthorized structure and the applicants were duped by the owner(s) while they inducted the applicants as tenants therein. It is further submitted that the applicants belong to the lower strata of the society and because of their weak economic background, it would really not be possible for the applicants to vacate the said building and explore alternative accommodation. He also submits that since the owner(s) of the building has/have, by now, submitted proposals before the Corporation for constructing fresh structures on plots bearing C.S. Nos. 2575 and 2577, the Court may take a lenient view of the matter and allow the said building to be used as transit accommodation till such time the fresh structures are constructed on the said plots by the owner(s). It is, therefore, prayed that keeping the earlier orders

passed by the Court in abeyance, the applicants may be allowed to remain in occupation of the said building and that the Corporation may be restrained from either dispossessing the applicants or from proceeding to demolish the said building.

4. The interim applications have been vehemently opposed by Mr. Patil, learned advocate for the Corporation. According to him, identical submissions were made earlier by the owner(s) of the said building and the same have been dealt with by a coordinate Bench in its order dated 30th August, 2021; and permission to remain in occupation having been availed of by the occupants in terms of such order and they having undertaken to vacate the said building by 30th September, 2021, there is no question of extending any further indulgence to the applicants.

5. We have heard Mr. Fernandes and Mr. Patil at some length. We have also perused the earlier orders passed by coordinate Benches from time to time granting sufficient indulgence to the occupants of the said building to vacate the same. There are even undertakings on affidavits filed by the occupants that they would vacate the said building, finally by 30th September, 2021. We cannot also ignore that an order was passed by a coordinate Bench, as far back as on 4th October, 2019 on Interim Application No. 1 of 2019 in a writ petition numbered as PIL No. 67 of 2017, whereby eight months' time was given for the occupants to vacate the said building. Entertaining the prayer of the applicants would necessitate this Bench to sit in appeal over the orders dated 4th October, 2019 and 30th August, 2021, which is an impermissible course of action. Perusal of the

detailed reasons assigned in the order dated 30th August, 2021 would reveal that the submissions now being advanced by Mr. Fernandes were, in fact, raised by Mr. Godbole, learned advocate for the owner(s) of the said building, and the same were not accepted. Advantage of the said order having been taken by the parties, it is no longer open to the applicants to resile therefrom. The order dated 30th August, 2021 has become final and binding, and has to be given effect. In such view of the matter, the prayers, as made, in the two interim applications cannot be granted.

6. Accordingly, Interim Application Nos. 2102 & 2605 of 2021 stand dismissed, without costs.

7. However, bearing in mind that the occupants of the said building had filed these interim applications expecting a favourable order thereon, for which they may not have vacated the said building, we permit the occupants of the said building as a last chance to continue to remain in occupation of the said building till 31st December, 2021 but not beyond. It is made abundantly clear that if the said building is not vacated in its entirety by 31st December, 2021 and a report to that effect is filed by the Corporation before the Bench on 3rd January, 2022, appropriate orders would be passed to secure vacation of the said building as well as its demolition, together with action in accordance with the laws of contempt.

Interim Application Nos. 1734 and 1735 of 2021:

List these interim applications filed by the Corporation on **3rd January, 2022**, (first on board).

Interim Application No. 2073 of 2021:

Mr. Milind Nar, learned advocate appearing for the applicant submits that he has instruction to withdraw the application since the subject structures have already been demolished. Accepting the request of Mr. Nar, Interim Application No. 2073 of 2021 stands dismissed as withdrawn. No costs.

Interim Application No. 2483 of 2021:

At the request of Mr. Muley, learned advocate for the applicant, Interim Application No. 2483 of 2021 stands dismissed as withdrawn. No costs.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)

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signed by
PRAVIN
DASHARATH
PANDIT
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