

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

WRIT PETITION NO. 7575 OF 2021

Vimal Devram Gangurde and Ors. .. Petitioners
Versus
The Municipal Commissionerm Kalyan
Dombivali Municipal Corporation & Ors .. Respondents

Mr. Amogh Singh i/b Anil Yadav for the Petitioners.
Ms. Mayuri Karekar i/b Mr. Sandeep D. Shinde for Respondent
Nos 1 to 4.
Mr. Sujeet Kurup for Respondent No. 6.
Mr. A.A. Alaspurkar AGP for the State.

**CORAM: A. A. SAYED &
ABHAY AHUJA, JJ.**

DATE : 20th APRIL 2022

P.C. :-

1. The Petitioner has filed the Petition seeking following reliefs.

“(a) This Honourable Court be pleased to issue Writ of Mandamus or Writ in nature of mandamus or any other appropriate writ, order and/or direction against Respondent Nos. 1 to 5- Statutory Authorities, to remove the illegal and unauthorised construction standing on Plot Land at Village:- Goliwli, Taluka:- Kalyan, District:- Thane on Plot of Land bearing Plot No. 23, Old Survey No. 121/2Pt., New Survey No. 61/2 Pt, constructed by the Respondent No. 6 herein of which is complained is made by the

Petitioners herein more particularly shown in rough sketch plan, Exhibit I hereto.

(b) Pending the hearing and final disposal of the Writ Petition the Respondent Nos. 1 to 5- Statutory Authorities, be directed to take action of demolition to remove the illegal and unauthorised construction standing on Plot Land at Village:- Goliwli, Taluka:- Kalyan, District:- Thane on Plot of Land bearing Plot No. 23, Old Survey No. 121/2Pt., New Survey No. 61/2 Pt, constructed by the Respondent No. 6 herein of which is complained is made by the Petitioners herein more particularly shown in rough sketch plan, Exhibit I hereto.

(c) This Honourable Court be please to permit the Respondent Nos. 1 to 5 to seek police protection (if required) in view of apprehension on part of the Respondent No. 6, of what is stated in paragraph 13 herein.

(d) This Honourable Court in view of what is stated in paragraph 13 hereinabove, the Respondent No. 5- State, through their appropriate department be directed with proper assistance carry out the TILR of the said property as stated by Respondent No. 4 in their letter dated 06/06/2019(Exhibit P hereto) for enabling them to take action against the unauthroised/ illegal structure more particularly shown in rough sketch plan, Exhibit I hereto”.

2. An Affidavit-in-Reply is filed by Respondent No. 6 interalia stating that premises of Respondent No. 6 are in existence since

the year 1947.

3. The Affidavit-in-Reply filed by Respondent-Corporation interalia states that notice was issued to the Petitioner as well as Respondent No. 6 to appear before the authorised Officer on 22nd January 2019 and directing the parties to produce TILR maps with respect to their properties. It is further stated in the Affidavit-in-Reply that since the boundaries are unidentified, it is not possible to determine the area on which the constructions stand and it is necessary for the parties to produce the TILR map.

4. Having heard the learned Counsel for the Petitioner, learned Counsel for Respondent No. 6 and Respondent-Corporation, we **dispose of** the Petition by taking on record statement of learned Counsel for Respondent No. 6, on instructions from Respondent no. 6 who is present in the Court, that in the event an Application is made by the Petitioner for survey and demarcation to the TILR, the Respondent No. 6 shall co-operate in the survey and demarcation of the subject property.

5. After the aforesaid exercise is carried out, the parties would be at liberty to file appropriate proceedings to challenge the demarcation and/or file a Suit in respect of the boundary dispute, as may be permissible in law.

6. We accept the statement of learned Counsel for the Petitioner that the Petitioner would make a fresh Application to TILR for survey and demarcation of the subject property.

7. The Petition to stand disposed of accordingly. All contentions are kept open.

(ABHAY AHUJA, J.)

(A. A. SAYED, J.)

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signed by
YUGANDHARA
SHARAD
PATIL
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