

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

WRIT PETITION NO.5954 OF 2023

Javed Nazeer Shaikh ... Petitioner.
Vs.
Thane Municipal Corporation & Ors. ... Respondents.

.....

Mr Mayuresh Dilip Modgi, for the petitioner.

Mr AA Alaspurkar, AGP for State-Respondent no.8.

Mr MR Bubna for respondents no.1 and 2.

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**CORAM: G.S.KULKARNI &
R.N.LADDHA, JJ.**

DATE : 27 APRIL, 2023.

P.C. :-

Heard the learned Counsel for parties.

2. This petition has been filed for following reliefs.

- a) Writ of mandamus or writ in the nature of mandamus directing the Respondent No.1 to demolish the construction being carried out by the Respondent No.7 which is specifically described in complaint dated 6th April 2023 (Exhibit A).
- b) Appropriate writ order or direction, directing the

Respondent No.1 to initiate departmental action against the Respondent No.2 to 5 for failure to take prompt action against the illegal construction being carried out by the Respondent No.7 and submit action taken report to this Hon'ble Court within time bound period.

c) Appropriate writ order or direction, directing the Respondent No.8 to levy heavy penalty upon the Respondent no.7 which can be utilized for compensating innocent and unwary buyers who may be displaced on account of demolition of illegal structure as per the law laid down by the Apex Court in the case of Friends Colony Development Committee V/S State of Orissa [2004(8) S.C.C.733].

d) Pending the hearing and final disposal of this petition, directions to the respondent no.1 to issue stop work notice of the construction which is the subject matter of the petitioner's complaint dated 6th April 2023 (Exhibit A).

e) Pending the hearing and final disposal of this petition, this Hon'ble Court may be pleased to appoint Court Receiver, High Court Bombay or any other appropriate person as the Court Receiver/Commissioner over the building under construction which is the subject matter of the complaint dated 6th April 2023 (Exhibit A).

f) Ad-interim reliefs in terms of prayer clause (d) and (e) above, may be granted.

g) Appropriate writ, order or directions directing the Respondent No. 1 to register offence against the Respondent no.7 under the relevant provisions of the Maharashtra Regional and Town Planning Act.

h) Appropriate writ, order or directions to the Respondent No.6 to recover fine/penalty for illegal use of government land and water for commercial purposes.

i) Cost of this petition.

j) Any other order as this Hon'ble Court may deem just and proper.

3. In the peculiar facts of the case, Mr. N. R. Bubna, learned Counsel for respondent Nos.1 and 2 – Municipal Corporation submits that the Municipal Corporation would immediately consider the complaint as made by the petitioner and necessary action would be taken including issuance of stop work notice. We accept the statement of Mr. Bubna.

4. In view of the fair stand taken by the Municipal Corporation, further adjudication of the petition is not called for. It is accordingly dismissed, keeping open all contentions of the parties. No costs.

[R.N.LADDHA, J.]

[G.S.KULKARNI, J.]