

Jvs.

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

PUBLIC INTEREST LITIGATION NO. 34 OF 2022

Sachin Pundalik Patil & Ors. versus The Municipal Commissioner, Kalyan Dombivli Municipal Corporation & Ors.	} } } }	Petitioners Respondents
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Mr. Sandeep Sharma for the petitioners.

Mr. Sandeep D. Shinde with Mr. Laukik B.
Pawar for respondents 1 & 2.

**CORAM: DEVENDRA KUMAR UPADHYAYA, CJ.
& ARIF S. DOCTOR, J.**

DATE: 27th SEPTEMBER 2023

P.C.:

- 1.** Heard Mr. Sharma, learned counsel for the petitioners and Mr. Shinde, learned counsel for Kalyan Dombivli Municipal Corporation (hereafter referred to as "the Corporation").
- 2.** The proceedings of this PIL petition under Article 226 of the Constitution of India have been instituted in public interest with the prayers that (i) the respondent Corporation be directed to take appropriate action against unauthorised constructions and illegal encroachments of the Government lands/reserved lands situated beside Haji Malang Road in the villages of Bhal, Vasar and Dwarli and at the corner of Nevali village; and (ii) the respondent Corporation be directed to initiate disciplinary action against the erring officers who are found negligent in taking action against the unauthorised constructions and illegal encroachments.

3. In the affidavit in reply filed by the Corporation, it has been stated, *inter alia*, that the complaints received from the petitioners were taken cognizance of and action was initiated against illegal constructions situated in village Dwarli in respect of 10 (ten) shops and even the demolition was also carried out on 7th October 2019. In respect of certain other complaints relating to unauthorised constructions, as per the affidavit filed by the Corporation, action has been initiated by issuing show-cause notices and taking other measures.

4. From a perusal of the reply affidavit filed by the Corporation, it appears that certain unauthorised constructions have been demolished and for removal of some other such unauthorised constructions and illegal encroachments, notices have been issued.

5. It is needless to say that the Corporation is under legal and statutory obligation to ensure that within its territories, no encroachment or illegal occupation comes up on Government land or land belonging to the Corporation or any reserved land. We acknowledge the actions said to have been taken by the Corporation, which are reflected from the affidavit in reply filed by it, however, it appears to us that something more needs to be done at the end of the Corporation to ensure not only removal of unauthorised constructions or illegal occupation, but also to ensure that no such unauthorised construction or illegal occupation is allowed to come up. Such a process will need continuous monitoring of the entire area so that unauthorised constructions or illegal occupation can be checked.

6. In the aforesaid view of the matter, we direct to the Corporation to continue its efforts and drive not only to remove the unauthorised constructions and illegal occupation within its territory, but also to ensure that no such illegal occupation or construction is permitted to take place. All possible measures and steps in this regard shall be taken by the Corporation and in case the petitioners or any other resident of the Corporation complains of such illegal occupation or unauthorised construction of a building, none other than the Municipal Commissioner shall personally look into it and take appropriate action which may be warranted under law.

7. It has often been noticed that in case any unauthorised construction or illegal occupation on any Government land comes to the notice of the authorities of the Corporation, except by issuing show-cause notices, the matter does not proceed any further and thus, we direct that in all such matters where show-cause notices for illegal occupation or unauthorised construction have been issued, the proceedings thereof shall be expedited and shall be taken to its logical end as soon as possible.

8. We are also of the opinion that no illegal occupation or unauthorised construction on the Government land comes up in case the officials of the Corporation are vigilant. Such illegalities keep on happening only because the officers of the Corporation are not performing their duties in terms of the Standard Operating Procedure (SOP). We, thus, direct that the Municipal Commissioner shall ensure that the SOP in the matters relating to removal of unauthorised construction and

illegal occupation of Government land is followed and if any officer is found lacking or erring in discharge of his duties, he will be subjected to suitable action which will include disciplinary action as well.

9. It is also directed that wherever police protection or help is needed by the Corporation for carrying out demolition of unauthorised construction or removal of illegal occupation, it shall be the duty of the police authorities of the area concerned to extend such co-operation without any laxity.

10. With the aforesaid directions, the PIL petition is disposed of.

(ARIF S. DOCTOR, J.)

(CHIEF JUSTICE)

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