



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 5743 OF 2023**

**GUNWANT SHANKAR WAGHMODE
VERSUS
THE CHIEF OFFICER MUNICIPAL COUNCIL DHARASHIV
ANT ANOTHER**

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Mrs. Snehal P. Kulkarni (Mahajan), Advocate for the Petitioner.
Mr. K. B. Jadhavar, AGP for Respondents-State.
Mr. Vevek Deshmukh, Advocate for Respondent No.1.
Mr. Abhijit G. Choudhari, Advocate for Respondent No.2.

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**WITH
CIVIL APPLICATION NO. 3300 OF 2025
IN WP/5743/2023
WITH
CONT. PETITION NO. 636 OF 2023
IN WP/5743/2023**

**CORAM : S. G. CHAPALGAONKAR, J.
DATED : 11th JULY, 2025.**

P.C.:-

1. Heard learned Advocates appearing for respective parties.
2. The petitioner impugns order dated 17.05.2023 passed by respondent no.1/Chief Officer, Municipal Council, Dharashiv, Taluka and District Osmanabad, whereby regularization order dated 10.04.2023 passed under provisions of The Maharashtra Gunthewari Developments (Regularisation, Upgradation and Control) Act, 2001 (for short 'Gunthewari Act, 2001') has been cancelled/withdrawn.
3. The learned Advocate appearing for petitioner submits that land Survey No.129 situated at Osmanabad was owned by one

Keshaorao Bagal and it was sold to proposed Prasad Krushi Karmachari Housing Co-operative Society. The society obtained N.A. permission from Sub Divisional Officer, Osmanabad in the year 1980, prepared lay out for allotting plots and issued certificate of allotment in favour of members. It is contention of petitioner that plot no.45 was allotted to Mrs. Shakilabee Abdul Gani Kureshi and her name was recorded with Municipal Council, she paid taxes. Eventually, respondent no.1 had granted construction permission in favour of Shakilabee in the year 2014.

4. The petitioner purchased aforesaid plot from Shakilabee and her husband under registered sale deed No.7054/2022 for valuable consideration of Rs.8,00,000/-. The no objection was issued by co-operative society for said transaction. According to petitioner, CTS No.8600 was allotted to plot no.45. The petitioner then applied to office of respondent no.1 under provisions of Gunthewari Act, 2001 for regularization of plot. The said proposal was accepted by respondent no.1 vide order dated 10.04.2023. Thereafter, petitioner obtained construction permission from Municipal Council and initiated construction over suit plot.

5. However, on complaint made by respondent no.2, respondent no.1 cancelled/recalled order dated 10.04.2023 regarding regularization of plot under Gunthewari Act, 2001. According to petitioner, before passing impugned order, proper opportunity of

hearing was not given. Although notice was issued to Prasad Krushi Karmachari Housing Co-operative Society and they filed reply on 16.05.2023, further time as asked to produce document, without granting opportunity, impugned order is passed. According to petitioner, action taken by respondent no.1 is malafide, hasty and contrary to principles of natural justice.

6. The learned Advocate appearing for respondents supports the impugned order.

7. Perusal of record shows that petitioner purchased plot under registered sale deed for valuable consideration. The record indicate that vendor of petitioner was granted construction permission in the year 2014. Thereafter, order of regularization under provisions of Gunthewari Act, 2001 was passed. The respondent no.1 granted permission to raise construction as per plan submitted by petitioner.

8. Perusal of impugned order despite that on complaint of respondent no.2, re-enquiry was initiated. Some documents were called from Prasad Krushi Karmachari Housing Co-operative Society and they were directed to produce original documents. Before documents could be tendered by Society, impugned order is passed cancelling order no.1182/2023 dated 10.04.2023 regarding regularization of Gunthewari. Apparently, order is passed in

undue haste and without considering relevant aspects of the matter. It is not clear whether petitioner was provided with relevant documents or given access to relevant documents from record of Municipal Council on the basis of which conclusion is drawn that suit plot falls within open space under lay out. Even in such cases, steps for regularization of construction are possible. No such opportunity is given to petitioner.

9. In this background, this Court deems it appropriate to quash and set aside impugned order dated 07.05.2023 and relegate matter to respondent no.1 for re-consideration.

10. Hence, Writ Petition stands allowed in terms of prayer Clause (B).

11. The matter is relegated to respondent no.1/Chief Officer, Municipal Council, Dharashiv, who shall grant sufficient opportunity to petitioner as well as Prasad Krushi Karmachari Housing Co-operative Society to furnish relevant record in support of their contentions and after giving hearing to all concerned, pass a fresh order in accordance with law.

12. In view of disposal of Writ Petition, pending Civil Application as well as Contempt Petition stands disposed of.

(S. G. CHAPALGAONKAR)
JUDGE