



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.2059 OF 2025
WITH
CIVIL APPLICATION NO.6219 OF 2025
WITH
CIVIL APPLICATION NO.1940 OF 2025

- 1] Jai Vishwa Bharati Sahakari
Gruhnirman Sanstha Limited,
Having its office At–Near Mahadev Temple,
Garkheda, Chhatrapati Sambhajinagar
Through its Authorized Director,
Sandeep Bhagwanrao Deshpande
Age: 45 years, Occ: Advocate
R/o– As above

..Petitioner

VERSUS

- 1] The State of Maharashtra,
Through its Principal Secretary,
Urban Development Department,
Mantralaya Mumbai,
- 2] The Municipal Corporation
Chatrapati Sambhajinagar,
Through its, Commissioner,
- 3] Shri Sainath Education Society,
The Society Registered under
The Societies, Registration Act,
having its office at:–Aurangabad,
through its secretary Shashtri Nagar,
Near Dr. Hegdewar Hospital,

Smt. Anamika Pruthviraj Supekar

...Respondents

*Advocate for the Petitioner : Mr.R.N.Dhorde, Senior Advocate

a/w. Mr.P.S.Dighe i/by. Mr. Vikram R.Dhorde

*AGP for Respondent No.1 : Mr. D.B.Bhange

*Advocate for the Respondent No.2 : Mr.S.B.Deshpande, Senior Advocate

i/by Mr.S.P.Urgunde a/w. Mr. Amit Vaidya and Ms. Priyanka A.Deshpande

*Advocate for Respondent No.3 : Mr. Harish S.Adwant h/f. Mr. S.V.Adwant

*Advocate for the Applicant in C.A. No.1940 of 2025 : Mr. V.S.Sapkal, Senior Advocate
i/by Mr. S.R.Sapkal and Mr.A.D.Khedkar

*Advocate for the Applicant in C.A No. 6219 of 2025 : Mr A.C.Darandale

CORAM : SHAILESH P. BRAHME AND

NEERAJ P.DHOTE JJ.

RESERVED ON : 23rd JULY 2025

PRONOUNCED ON : 13th AUGUST 2025

JUDGMENT : (*Per : Shailesh P.Brahme,J.*)

1. Rule.

2. Rule is made returnable forthwith with the consent of the parties. Heard litigating sides as well as both the intervenors.

3. By invoking jurisdiction under Article 226 of the Constitution of India, petitioner is assailing the order of the co-ordinate bench dated 23.01.2025 passed in Writ Petition No.8517 of 2024 of which one of us (Hon'ble Shri Justice Shailesh P.Brahme) was a party. Petitioner has also solicited direction to restrain the Respondent No.2/ corporation from constructing 9 meter's width road from the disputed land and to

provide approach road to the Respondent No.3/education society from adjoining open space.

4. At the outset, it needs to be clarified that the scope of the present petition is mainly to examine validity of the order dated 23.01.2025 passed in Writ Petition No.8517 of 2024, as it has been recorded in order dated 19.06.2025 while deciding Civil Application No.5913 of 2025 in the present matter. We do not propose to expand the scope of our enquiry by going into validity of resolution dated 28.02.2024 passed by the Respondent/ corporation allotting piece of land to the Respondent No.3/Education society and lease deed executed on 22.06.2024 by the respondent/corporation in pursuance of it. By recording reasons in our order dated 19.06.2025, we refused permission to petitioner to incorporate the pleadings in respect of the action of the corporation of allotting the suit plot to the respondent No.3. In that view of the matter, the rival submissions of the parties need to be assessed.

5. Petitioner is a co-operative society and owner of Sy.No.62 located at village Garkheda, Dist.Aurangabad of which Site No.149 was part and parcel. For securing sanctioned lay-out from the planning authority, open space of about 1 acre and 32 gunthas comprising of Site No.149 was transferred to the Respondent

No.2/corporation by registered gift deed dated 28.10.1970. The adjoining site No.148 was reserved for school. The respondent No.2/corporation allotted 3600 sq.mt. area bearing C.T.S No.15735/1/P to the respondent No.3/education society by passing resolution on 28.02.2024. In pursuance of that, a lease deed was executed by the respondent No.2 in favour of the respondent No.3/education society on 27.06.2024 for period of 30 years. A clause No.5 is incorporated in the lease deed mandating the corporation to provide road to the respondent No.3. The Respondent No.3 requested to provide road. The corporation did not respond. Hence, Respondent No.3 filed Writ Petition No.8517 of 2024 on 06.08.2024 in High Court against corporation.

6. Petitioner noticed in June 2024 that respondent/corporation started felling the trees to provide approach road from site No.149 for the school. Feeling aggrieved by the action and apprehending invasion on the peace, tranquility on it's members and public at large, it filed R.C.S No.37 of 2024 before Civil Judge Senior Division, Aurangabad on 05.08.2024 which was registered on 05.09.2024 for the relief of perpetual injunction. The Respondent/corporation caused it's appearance and filed written statement-cum-say. Petitioner learnt about order dated 28.05.2025 passed in Writ Petition No.8517 of 2024.

In this backdrop, present petition is filed contending that order dated 23.01.2025 passed in earlier writ petition is obtained by fraud and suppression of material facts. The respondents were in collusion and did not disclose pendency of R.C.S No.37 of 2024. It is further contended that it is impermissible for the corporation to provide road from site No.149. The action of the corporation is arbitrary and high handed.

7. Respondent Nos.2 and 3 have filed affidavit in reply contesting the claim of the petitioner. They have raised preliminary objections on maintainability of the petition and various pleas to demonstrate that order dated 23.01.2025 is in accordance with law and inter alia contending that it's a obligation of the respondent/corporation to provide road. Two civil applications are filed by intervenors who are the adjoining residents.

8. Learned Senior Counsel Mr.Dhorde appearing for the petitioner submits that impugned order dated 23.01.2025 passed in Writ Petition No.8517 of 2024 has been obtained by suppression of material facts and fraud. Hence present writ petition is maintainable. He would submit that open space of site No.149 wherein garden is developed can not be used for the approach road. It is impermissible to the corporation to provide any road to the Respondent No.3. It is further

submitted that petitioner has already approached civil court vide R.C.S No.37 of 2024 in which respondent/corporation appeared. These facts are suppressed while securing impugned orders from the Division Bench. It is submitted that respondent/corporation acted in collusion with the Respondent No.3 in consenting before the division bench for providing road and this has been done behind the back of the petitioner. The petitioner was necessary party. It is further submitted that the corporation even did not disclose various representations and the complaints made by representatives against felling of the trees. Lastly, it is submitted that open space is meant for common utilization and part of it can not be converted into road.

9. *Per contra*, learned senior counsel Mr.Deshpande appearing for the Respondent No.2/corporation has canvassed that petitioner has no right, title or interest either in site No.149 or the road in question. It has no *locus standi* to claim any relief against the respondents. . The maintainability of the petition is strongly challenged by him. It is further submitted that gift deed, allotment of the land and lease deed were not challenged and therefore petitioner is estopped from claiming any relief. It is submitted that all relevant facts were disclosed before division bench in Writ Petition No.8517 of 2024. The allegations of suppression of facts, fraud and collusion are refuted. It is further contended that by filing written statement, the corporation

had brought to the notice of the Civil Court as well as to present petitioner that Writ Petition No.8517 of 2024 had been filed but the petitioner did not intervene in the petition. Learned counsel would submit that the corporation is under statutory obligation to provide road to the landlocked land. It has secured permissions from the competent authority for the felling of trees and it is developing the garden to safeguard the interest of the local residents and no prejudice would be caused to them as well as environment.

10. Learned counsel Mr.Adwant for the Respondent No.3 would support the submissions of the Respondent No.2/corporation. Additionally, it is submitted that by spending huge money, the land of 3600 Sq.mt. of plot of C.T.S No.15735/1/P is being allotted to the Respondent No.3 for running a school. It's a landlocked plot and it is not possible to start construction unless there is approach road. He would point out various provisions from Development, Control and Promotional regulations, M.R.T.P Act and The Maharashtra Municipal Corporations Act,1949 to buttress that to provide approach road is a legal duty. It is further submitted that after following due procedure of law it has been allotted a plot with which the petitioner is not concerned. It is further submitted that conduct of the petitioner is objectionable because for self-same relief it has chosen two forums. It failed to prosecute suit diligently.

11. Learned Senior Counsel Mr.Sapkal appearing for the intervenors discloses his client's interest by adverting our attention to the prayer clause 'D' of the petition. His client is adjoining society and it's members are entitled to receive the benefits of open space and garden. He also questions the conduct of the corporation in providing road. The corporation should have disclosed the dispute raised by the petitioner and pendency of civil suit before the bench which passed impugned order. He would further submit that lease deed executed in favour of Respondent No.3 is bad in law.

12. Learned counsel Mr.Darandale appearing for the intervenor adopts the submissions of petitioner. He also would question impugned order on grounds of suppression of facts and collusion.

13. We have considered rival submissions of the parties. We have already clarified that this Court can not go into the allotment of plot in question to the Respondent No.3, the procedure followed by the corporation and the lease deed. Till this date the petitioner and the intervenors have not challenged the allotment of land to the Respondent No.3.

14. The respondents have raised preliminary objections regarding maintainability of the writ petition. Petitioner is seeking quashment of

order dated 28.01.2025 passed in Writ Petition No.8517 of 2024 and direction against respondent/corporation. Petitioner was not party to the petition. It is claiming locus being adjoining society and it's members are the beneficiaries of the open space of site No.149 through which 9 mt. road is proposed to be carved out. The grounds of objection in the petition and the submissions of learned senior counsel Mr.Dhorde indicate that suppression of material fact, fraud and collusion are the grounds on which order passed in earlier writ petition is sought to be challenged. The challenge is not merely on the basis of illegality or propriety.

15. To sustain objection for maintainability of the petition, learned senior counsel Mr. Deshpande relied on the judgment of the Constitution Bench of the Apex Court in the matter of **Naresh Shridhar Mirajkar and others Vs. State of Maharashtra and others** reported in (1966) 3 SCR 744. Our attention is adverted to para Nos. 37, 38 and 59. In that case oral orders of the learned Judge on the original side of the Bombay High Court prohibiting publication of evidence of Mr. Guda was the subject matter. The question was that whether impugned order affects fundamental rights of the petitioner under Article 19(1) of the Constitution of India. In that context observations are made in above referred paragraphs. The law laid

down by the Constitution Bench cannot be made applicable to the case at hand because in the present matter writ petition is filed on the allegations of fraud, collusion and suppression of material facts.

16. Further reliance is placed on the judgment in the matter of **Triveniben Vs. State of Gujrat** reported in **(1989) 1 SCC 678**. We have gone through para No. 22 of the judgment. The facts are distinguishable and this judgment also will not help the respondents. Lastly reliance is placed on the judgment in the matter of **Maninder Kaur Vs. Delhi High Court and others** reported in **1995(1) SLR 320**. We have gone through paragraph No. 21 of the judgment. In that case the decision of the Division Bench was sought to be reviewed. Cited judgment is in the context of altogether different facts. In the present matter fraud and suppression of material facts besides violation of principles of natural justice are pressed into service. Hence this judgment also will not help the respondents.

17. Learned senior counsel Mr. R. N. Dhorde relied on the judgment in the matter of **Ramchandra Ganpat Shinde and another Vs. The State of Maharashtra and others** reported in **AIR 1994 SC 1673**. In that case two members of the co-operative society had filed writ petition for mandamus to the Collector and Election Officer to conduct election. Division Bench passed order. Second Writ Petition

was filed and earlier order got modified to enable 2000 newly enrolled voters to participate in election. Third writ petition was filed pointing out collusion and fraud. It's maintainability was questioned. Interestingly, judgment of Constitution Bench in case of **Naresh Shridhar Mirajkar and Ors. vs. State of Maharashtra and Ors.** reported in AIR 1967 SC 1 which is cited by respondents in present case was referred to and it is held that such writ petition is tenable. Following are the relevant extracts :

“11. Obviously finding the piquant situation in which Patil, More and Mule have been placed themselves, Sri Ashok Desai the learned Senior counsel appearing for Society, sought to salvage their problem placing reliance on the ratio of this Court in **Naresh Shridhar Mirajkar and Ors. v. State of Maharashtra and Anr.** [1966]3SCR744. Therein the facts were that the High Court of Bombay, while trying a suit for defamation against the editor of a weekly newspaper, exercised its inherent power under Section 151 C.P.C., conducted the trial of the suit in camera and prohibited publication of the evidence and the proceeding so as to prevent business of the editor of the newspaper being affected. A writ petition was filed under Article 32 in this Court challenging the validity of the order of the High Court contending inter alia that the High Court had no jurisdiction to prohibit publication of the news; it affected their rights under Article 19(1)(a) and it was resisted on the ground that the writ petition under Article 32 was not maintainable to review judicial order of the court. This Court by seven Judges per majority held that the petitioners had no fundamental right under Article 19(1)(a). The Court had inherent power and jurisdiction under Section 151 CPC to conduct in camera trial and to prohibit publication of its proceeding of evidence and that writ petition under Article 32 is not maintainable to quash the judicial order. It is seen that the court, in order to protect the interest of one of the parties to the suit, exercised inherent power and jurisdiction under Section 151 CPC, passed a judicial order prohibiting publication of the proceeding in the suit or the evidence of the witness. It being a judicial order no third party has a right to intervene and challenge the same in the proceedings under Article 32 of the Constitution. The ratio therein has no application to the facts of this case. Undoubtedly, the order passed by the High Court under Article 226 is a judicial order exercising its constituent power but when its process is abused and an order of minutes obtained by consent hedged with collusion and fraud on the Court and obviously, though not pleaded, on general body of the members of the

society, when the facts were brought to the notice of the High Court, it is the High Court alone or on appeal this Court which is to correct such and order.

12. Mr. Justice Arthur T. Vanderbilt in his "The Change of Law Reform 1955" at pages 4 and 5, stated that:

...it is in the Courts and not in the legislature that our citizens primarily feel the keen, the cutting edge of the law. If they have respect for the work of their courts, their respect for law will survive the short comings of every other branch of the Government; but if they lost their respect for the work of the Courts, their respect for the law and order will vanish with it to the great detriment of society.

(vide the Judicial Process by H.J. Abraham, p.3)

13. Respect for law is one of the cardinal principles for an effective operation of the constitution, law and the popular Government. The faith of the people is the source and succour to invigorate justice intertwined with the efficacy of law. The principle of justice is ingrained in our conscience and though ours is a nascent democracy which has now taken deep roots in our ethos of adjudication - be it judicial, quasi-judicial or administrative as hallmark, the faith of the people in the efficacy of judicial process would be disillusioned, if the parties are permitted to abuse its process and allowed to go scot free. It is but the primary duty and highest responsibility of the court to correct such orders at the earliest and restore the confidence of the litigant public, in the purity of fountain of justice; remove stains on the efficacy of judicial adjudication and respect for rule of law, lest people would lose faith in the courts and take recourse to extra-constitutional remedies which is a death-knell to the rule of law."

18. Reliance is placed by the petitioner on the judgment of **Pohla Singh alias Pohla Ram (D) By LRS. Vs And Others vs. State of Punjab and Others** reported in (2004) SC 126. It is pointed out that the second writ petition seeking to recall the decision passed in earlier writ petition in which they were not parties and the decision was adversely affecting the interest, is maintainable. In the present petition we have already held that petition is maintainable. However, we have our reservations for the claim of the petitioner that it is a

necessary party. Therefore, to the limited extent the ratio can be made applicable. Further reliance is placed on the judgment of **A.V. Papayya Sastry and Ors. Vs. Government of A.P and Ors.** reported in AIR 2007 SC 1546 for the proposition that if the order is obtained by playing fraud then it is a *non est* and can not be allowed to stand. It's a nullity. As in the case at hand, the petitioner has come up with a plea of fraud and suppression of material facts, we have to entertain the petition on merits. The ratio is applicable to the present case.

19. A trite law is that fraud vitiates everything and order obtained by suppression of facts and fraud is *Non est*. Petitioner claims to be necessary party in earlier petition. Obviously adherence to the principles of natural justice needs to be gone into. In our considered view, we find that present petition is maintainable. The objection of the respondents for maintainability of the petition is overruled.

20. Petitioner has a layout at the adjoining area of the plot bearing C.T.S No.15735/1/P allotted to the Respondent No.3. By gift deed dated 28.10.1970, 1 acre 32 gunthas comprising of site No.149 was transferred to the Respondent No.2/corporation and it is in possession of the same. Being local body as well as planning authority, it is a prerogative of the Respondent No.2/corporation to

utilise the land vested in it. Petitioner or any other stakeholder can not object the action of the corporation unless that is in violation of any statute, rules or the public policy.

21. Earlier Writ Petition No.8517 of 2024 was filed by the Respondent No.3/education society against state and municipal corporation on 06.08.2024 praying for following reliefs :

“(a) Rule nisi be issued

(b) By issuing an appropriate writ or order, in the nature of mandamus, the respondent be directed to provide 9 meter wide access road to the leasehold property of the petitioner, given on a 30 year lease on 27.6.2024, under registered lease deed No.4499/2024.

(c) By issuing an appropriate writ or order, in the nature of mandamus, the respondent be directed to honour its commitment under clause 10(f) of the registered lease deed dated 27.6.2024.

(d) Pending hearing and disposal of the petition, the respondent be directed to provide an approach road for ingress and egress to the leasehold property specified in the lease deed dated 27.6.2024, to enable the petitioner to undertake and commence development activity on the leasehold property.

(e) Any other equitable relief, to which the petitioner is found to be entitled in the circumstances of the case, be granted in the interest of justice.”

22. In order to appreciate the submissions of learned senior counsel Mr.Dhorde and the intervenors, we have gone through pleadings and affidavits in reply of the corporation therein and pleadings of R.C.S No.37 of 2024. Respondent No.3 was allotted a piece of land for running a school. As per terms of lease deed, it was requesting for providing approach road. Respondent No.3 could not

have asked any relief against the petitioner which was adjoining society. It was upto the corporation being local body and the planning authority to provide approach road. Pertinently, the Respondent No.3 was not demanding road from any of the plots of lay out of the petitioner's society or any piece of land which was exclusively in its possession. It can not be said that for execution of any of the relief the petitioner's participation was required. In the earlier writ petition, present petitioner can not be said to be a necessary party.

23. The petitioner has filed R.C.S No.37 of 2024 on 04.09.2024, for perpetual injunction. Just because suit is filed, would not make it a necessary party in the petition filed by the Respondent No.3. The petitioner was not granted interim injunction in suit. The reliefs claimed in the petition before High Court and in suit before civil court were distinct. The non-disclosure of pendency of suit is inconsequential. Therefore, we do not find any substance in the allegations of suppression of material facts.

24. Respondent No.3 filed Writ Petition No.8517 of 2024 on 06.03.2024. Petitioner filed R.C.S No.37 of 2024 on 05.08.2024 before Civil Court at Aurangabad but it was registered on 05.09.2024. *Roznama* produced on record indicates that in pursuance of the summons, Respondent No.2/corporation appeared on 15.10.2024 and

time was sought for filing say or written statement. On 30.11.2024 say-cum-written statement was filed. Following paragraph of the say is relevant :

22] The defendant submits that, the allottee Shri Sainath Education Society has filed Writ Petition no 8517/2024 before the Hon'ble High Court Chh. Sambhaji Nagar for the relief of providing Access road to the land given to It on lease i.e. portion marked "C" in the above map. In the said Writ Petition this defendant has filed Its detailed Affidavit In Reply. The defendant reserves its right to produce the copy thereof, on record before this Hon'ble Court.

25. The matter was adjourned on 30.11.2024 for arguments of Exhibit-5 and was posted on 09.12.2024. The advocates of both the sides were absent and no arguments were advanced on application Exhibit-5. Matter was adjourned to 13.01.2025 when application D-14 was filed by the petitioner praying to defer the hearing of Exhibit-5. Thereafter, on the next date i.e on 13.01.2025 *pursis* was submitted by the petitioner not pressing application Exhibit-5. Petitioner did not prosecute application Exhibit-5 before the civil court and has given up claim for temporary injunction. This conduct creates doubt for the bona-fides of the petitioner, if it was concerned with trees and garden.

26. In the say filed by the corporation before civil court on 30.11.2024, it was candidly disclosed in paragraph No.22 referred

above that Respondent No.3 had filed writ petition No.8517 of 2024. The writ petition was pending from 30.11.2024 to 23.01.2025 in the High Court. The petitioner had every opportunity to approach High Court either by intervening in the petition or for filing independent petition against the respondents but no timely steps were taken. Therefore, hue and cry made by the petitioner that order sought to be recalled is passed behind it's back has no substance. We find that petitioner is to be blamed for the lapses and can not be heard to say that impugned order is obtained by suppression of facts in civil proceedings.

27. We have recorded that petitioner was not a necessary party in Writ Petition No.8517 of 2024. The allotment of the plot and the lease deed have not been challenged by the petitioner. Being a local body and the planning authority, Respondent No.2/corporation was bound to provide the approach road. A specific term No.(f) is incorporated in the lease deed to that effect. Therefore, there was nothing wrong on the part of Respondent No.3 to demand approach road. Learned counsel for the Respondent No.3 has referred to various provisions of Municipal Corporations Rules, 2023 for transferring the plot. Section 205(a) of The Maharashtra Municipal Corporations Act, 1949 empowers the corporation to make a new street. Regulation No.3.2.1,

3.2.2 and 3.3.14 stipulate obligation on the corporation to provide road. Prima facie there is reason to believe that it was a statutory obligation upon the corporation and therefore there was nothing wrong in giving consent before the division bench for providing road.

28. It is the look out of the corporation to provide road to landlocked plots. The manner in which and the site from which the it is to be provided is its discretion. If the intervenor or adjoining owners or stakeholders are offended by action of the corporation then they can resort to the remedy available in law. The recalling of order passed in Writ Petition No.8517 of 2024 can not be the recourse. No rights and liabilities of the parties are decided as such by the order in question.

29. Impugned order shows the readiness of respondent/corporation to provide road as per the lease agreement. The consent given by the corporation can not be said to be extraneous or besides their statutory obligation. The corporation filed affidavit in reply before the division bench disclosing relevant facts. Reply was filed on 28.08.2024 i.e before registration of suit filed by the petitioner. It is not recorded in the impugned order to provide road from a particular land or plot. It is left to the discretion of the corporation. No case is made out for bordering fraud or collusion .

30. It is forcefully contended by the intervenor that the corporation should have disclosed to the Division Bench that civil suit was *sub-judice*. Even if it was disclosed, we do not think that it would have affected or changed the order in question. The affected party chose not to appear before High court. The learned counsel for the corporation was in agreement with the request for providing approach road, principally. We find no element of collusion or the fraud.

31. Learned Senior Counsel Mr. Dhorde relied on the judgment of **Pt.Chet Ram Vashist (Dead) by LRS. vs. Municipal Corporation of Delhi** reported in (1995) 1 SCC 47 and **Vrajlal Jinabhai Patel, Since deceased through his L.R.s Smt. Jagrati Vrajlal Patel and another vs. State of Maharashtra and others** reported in 2003 (3) Mh.L.J. Both the judgments are on the same lines. Therefore, they are dealt with commonly. By referring the ratio it is tried to be impressed that corporation has right to examine the lay out plan submitted by the colonizer but while exercising such power it can not impose restrictions and conditions which are unreasonable and against law. The issue germane the matter at hand is totally different and therefore the ratio can not be made applicable.

32. Learned counsel Mr.Adwant for Respondent No.3 relied on

following judgments :

A) **Pt.Chet Ram Vashist (Dead) by LRS. vs. Municipal Corporation of Delhi** reported in (1995) 1 SCC 47.

. Our attention is adverted to paragraph Nos.4,6 and 7 of the judgment. It is held that once the open space is transferred to the corporation it is the custodian of the public interest and has to manage the land in the interest of society in general. The effect of transfer of the property is that the transferor ceased to be owner of it and ownership stands transferred to the person in whose favour it is transferred. As we are not deciding the issue in respect of the vesting of the open space of site No.149, we refrain ourselves from commenting anything on the basis of the cited judgment.

B) **P.R.Narhari Rao vs. State of Kerala and Others** reported in (2012) 12 SCC 451.

. The facts are distinguishable and therefore the ratio laid down is not applicable to the facts involved in the present case.

C) **Budhia Swain and Others vs. Gopinath Deb and Others** reported in (1999) 4 SCC 396.

. In this case the power to recall is explained by Hon'ble Apex Court in paragraph Nos.6 to 8 of the judgment. In the present case we are not purely exercising the powers under Article 215 of the

Constitution of India because the petitioner was not a party to earlier writ petition. The allegations of fraud and collusions are levelled in the case at hand and therefore we have held that writ petition is maintainable.

D) **Ramchandra Tukaram Mohite (Since deceased) through LRs. vs. Ramchandra Tukaram Mohite, Since deceased through heirs and L.R.'s and Others vs. State of Maharashtra, Through its Department of Urban Development and Others** reported in 2023 SCC Online Bom.2640.

. We have gone through paragraph No.32 of the judgment. The facts are different and the ratio is not applicable.

E) **Vijay Nanikram Bhatia and Others vs. State of Maharashtra, Through Department of Urban Development and Others** reported in 2023 SCC Online Bom.2707.

. The judgment can not be made applicable because that is distinguishable on facts.

F) **Shridhar and Another vs. Revanna and Others** reported in (2020) 11 SCC 221.

. We have gone through paragraph No.25 of the judgment which explains what is the 'public duty' of the municipal corporation. We have

already observed that corporation is duty bound to provide approach road for the landlocked properties. We derive support from the ratio laid down in paragraph Nos.25, 26 and 27 of the judgment in observing that in the present case also, Respondent/corporation is obliged to provide road to the Respondent No.3.

33. For the reasons assigned above, we find no merit in the writ petition. Hence, we pass following order :

ORDER

- A) Writ Petition is dismissed.
- B) Rule is discharged.
- C) Civil Applications are disposed of.

[NEERAJ P.DHOTE J.]

[SHAILESH P. BRAHME, J.]

34. After pronouncement of the judgment, learned counsel for the petitioner prays for the continuation of the statement made by learned senior counsel Mr. Deshpande which is in operation till today.

35. Learned counsel Mr. Advant appearing for respondent No.3 vehemently opposes the request. He would submit that his plot is

landlocked and he is unable to utilize the same for the purpose for which it is allotted to.

36. There was statement made by learned senior counsel Mr. Deshpande which is in operation till today. It is in the form of status quo. Today, there is nobody to either continue the statement or make the statement. As the *status quo* is in operation till this date, we continue the status quo for the period of three (3) weeks from today.

37. It is clarified that the order shall stand vacated without reference to Court after expiration of three (3) weeks.

[NEERAJ P.DHOTE J.]

[SHAILESH P. BRAHME, J.]

vsj