



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO. 7427 OF 2022
VANDANA SANJAY BHAMARE
VERSUS
THE STATE OF MAHARASHTRA
THROUGH ITS SECRETARY AND OTHERS**

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Advocate for the Petitioner : Mr. Sapkal Sandip R
AGP for Respondents/State : Mr. R. D. Raut
Advocate for Respondent No.2 : Mr. Desale Nilesh N.
Advocate for Respondent No.3 : Mr. Jain Gajendra Devichand

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**CORAM : ROHIT W. JOSHI, J.
DATE : 26th AUGUST 2025**

PER COURT :

1. The Petitioner has filed a suit being Regular Civil Suit No.293/2021, *inter alia* challenging notice of demolition dated 07.09.2020 (07.09.2021) issued by the Respondent No.2/Municipal Corporation. The said notice is issued with respect to the alleged unauthorized construction over the land bearing Plot No.35 and 36 admeasuring 193.75 and 186 sq. meters respectively in Gat Survey No.21, Walwadi. The Respondent No.3 has filed an application for addition of his name as party Defendant in the said civil suit. The said application filed vide Exhibit-14 is allowed vide order dated 24.01.2022. The present petition is filed challenging the said order.

2. The learned Advocate for the Petitioner states that the suit

is filed in order to challenge a demolition notice issued by the Municipal Corporation and that having regard to the subject matter of the suit and particularly the prayers made, the Respondent No.3 is neither a necessary party, nor a proper party. He further contends that the Respondent No.3 has filed application in his capacity as President of a Society namely Public Education Society. He further contends that the said Public Education Society had filed a suit being Regular Civil Suit No.550/2012, seeking demolition of alleged unauthorized construction made over the same property and that the said suit came to be disposed of in view of settlement arrived at before the Lok Adalat on 12.03.2022. The learned Advocate states that although the husband of the Petitioner is Defendant in the said suit, the suit property and the subject matter of the suit i.e. alleged illegal construction in both the suits, is common.

3. The learned Advocate for the Respondent No.2/Municipal Corporation does not dispute the contention that both the disputes are pertaining to the same plot and same illegal construction.

4. The learned Advocate for the Respondent No.3 states that the earlier civil suit was filed against husband of the Petitioner. He further contends that the said civil suit was filed by the Society and not the Respondent No.3 who is a President of the Society. He contends that President of a Society and the Society are two separate juristic persons and therefore withdrawal of the said civil suit in

terms of the settlement will not be a ground for not permitting Respondent No.3 to contest the civil suit filed by the Petitioner. He states that since unauthorized construction is made near building of the school run by Public Education Society, of which Respondent No.3 is the President, rights of Respondent No.3 and the said Society are involved in the suit.

5. The learned trial Court has allowed the application, observing that since another civil suit being RCS No.550/2012 is filed by the Society with respect to subject matter of the present suit and the proposed Defendant is the Chairman of the said Society, it was appropriate that the application for addition of party should be allowed. The learned trial Court has rejected the contention raised by the Respondent No.3 that his present was also necessary in view of public interest. Thus the only ground on which the application is allowed is that another civil suit relating to unauthorized construction, was filed by the Society of which the Respondent No.3 is the Chairman/President. It is not in dispute that the said suit is disposed of subsequently on 12.03.2022 in view of some out of Court settlement. In that view of the matter, the foundation of the impugned order is completely eroded. That apart having regard to the relief sought, it does not appear that the Respondent No.3 is a necessary or even a proper party. The presence of Respondent No.3 is not required for adjudication of controversy forming subject matter of the suit.

6. In view of the above, Writ Petition is allowed in following terms :

(i) Order dated 24.01.2022 passed by the learned 6th Joint Civil Judge, Junior Division, Dhule on application at Exhibit-14 in RCS No.293/2021 is quashed and set aside and the said application is rejected.

ROHIT W. JOSHI
JUDGE

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