



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 9309 OF 2025

Ganesh Asaram Waghalthale & Anr.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

AND

WRIT PETITION NO. 9311 OF 2025

Ravindra Ambadas Kharote

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

AND

WRIT PETITION NO. 9332 OF 2025

Suresh Ambadas Waghalthale & Anr.

...Petitioners

Versus

The State of Maharashtra & Ors.

...Respondents

- Mr. More Ashok A., for Petitioner.
- Mr. S. V. Hange, AGP for Respondent No.1 in WP/9309/2025
- Mr. S. K. Tambe, AGP for Respondent No.1 in WP/9311/2025.
- Mr. S. P. Sonpawale, AGP for Respondent No.1 in WP/9332/2025.
- Mr. S. S. Tope a/w Mr. S. P. Urgunde, for Respondent Nos.2 and 3 in all petitions.

**CORAM : MANISH PITALE AND
Y. G. KHOBRAGADE, JJ.**

DATE : 29th JULY 2025.

P. C. :

1. The reliefs claimed in these petitions are identical to the reliefs that were claimed in Writ Petition No.7653 of 2025.

2. Writ Petition No.7653 of 2025 was disposed of by an order dated 27th June 2025. These three petitions are concerning similarly situated persons except that in Writ Petition No.9311 of 2025, the petitioner claims to have a commencement certificate dated 05th March 1993 in his favour. The learned counsel appearing for the respondent – Municipal Corporation submits that merely having a commencement certificate cannot be a point of distinction with the other two petitions, for the reason that condition No.4 in the commencement certificate itself specifies that the petitioner would be able to occupy the structure in question only after obtaining an occupancy certificate from the Municipal Corporation. There is nothing to show that the petitioner in Writ Petition No.9311 of 2025 has obtained an occupancy certificate in respect of the structure in question. There is substance in the contention raised on behalf of the respondent – Municipal Corporation that as per the provisions of the Maharashtra Municipal Corporations Act, 1949, including Sections found in Chapter 15 thereof, particularly Section 263 of the said Act, the onus is upon the person, who obtains a commencement certificate to ensure that the occupancy certificate is duly obtained within one month of completion of the structure, so as to ensure that it is in terms of the building plan approved by the

Municipal Corporation.

3. In the absence of the occupancy certificate in the case of the petitioner in Writ Petition No.9311 of 2025, this Court is unable to appreciate the factual distinction sought to be made out on behalf of the said petitioners as compared to the petitioners in the other two petitions i.e. Writ Petition No.9309 of 2025 and Writ Petition No.9332 of 2025.

4. We have perused the order dated 27th June 2025, passed in Writ Petition No.7653 of 2025 (Janardan Sampat Wagh & Ors. Vs. The State of Maharashtra & Ors.) in the case of identically situated petitioners. The relevant portion of the said order reads as follows :

- “3. *Notwithstanding the above, any construction carried out without Building and Construction Permission, even though within the plot to which a Petitioner may have a right and title, is an illegal construction. No illegal construction can stand on a plot, even if it is owned by Petitioner.*
4. *It is a fallacious submission of the learned Advocates appearing in all these Petitions that until the Government decides the DP, their structures should not be touched. It is immaterial as to whether the Government utilises its land. What is material is that no citizen of this Country can construct a property*

without prior Building and Construction Permission even in his own land. If an illegal structure is countenanced, citizens would start constructing multiple floors in their own plots contending that they are at liberty to construct whatever structure they desire as if this is unfettered by law.

5. *We, therefore, reiterate that even if a structure standing without prior Building and Construction Permission in these areas as well as the entire city of Chhatrapati Sambhajinagar, the Corporation shall follow the procedure and demolish the structure after 15th August, 2025. Those persons who are aware of their illegal structures without prior Building and Construction Permission, shall remove their belongings and demolish their own structures to the extent the structures are illegal, until 15.08.2025. If there is any scheme of the Corporation or the Government for regularisation of structures, it is left to the Authorities to implement the provisions of such schemes.*
6. *We would also record though we have said it in the earlier portion of the order in the earlier Writ Petitions (**WRIT PETITION NO. 7558 OF 2025, KUSUMBAI LAXMAN NARWADE AND OTHERS VERSUS THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS**), that after the illegal construction portions are removed, if the Authorities*

desire to acquire the land for the widening of the road to the extent of 60 mtrs, the due process shall be followed and those who lose their lands having a title to the property, in such widening of the road, would be entitled for compensation as per the Act of 2013.”

5. Since we find that the petitioners in these petitions are identically situated as the petitioners in Writ Petition No.7653 of 2025, we dispose of these three petitions also in terms of the above quoted portion of the order dated 27th June 2025, passed in Writ Petition No.7653 of 2025. The said observations shall be read as having been made in the context of these three petitions also.

6. Hence, the petitions are disposed of in above terms. Pending applications, if any, also stand disposed of.

(Y. G. KHOBRAGADE, J.)

(MANISH PITALE, J.)