



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7877 OF 2025

NUTANKUMAR CHANDULAL PATNI (JAIN)
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for the Petitioner : Mr. Vishal P. Bakal
Govt. Pleader for Respondents: Mr. A.B. Girase
Advocate for Respondent - Corportion : Mr. S.S. Tope

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CORAM : MANISH PITALE &
Y. G. KHOBRAGADE, JJ.

DATE : 03.07.2025

PER COURT:

1. By this petition the Petitioner has sought a declaration that the proposed action of demolition by the Respondent of his house (Clinic) is arbitrary and illegal. It is an admitted position that during the pendency of this petition, the structure has already been demolished. The Petitioner claims title to the land on which the structure was existing.
2. The learned counsel appearing for the Respondent - Corporation and learned AGP invites attention of this Court to a recent order passed on 27.06.2025 in **Writ Petition No.7653/2025 (Janardan Sampat Wagh and Ors. Vs. The State Maharashtra through its Secretary and Ors.)**. It is submitted that the grievance of the Petitioner would be satisfied if a similar order is passed in the present petition also.
3. We have perused the said order which reads as follows :

- “1. *Mr. More, the learned Advocate for the Petitioners has pointed out an award dated 18.12.2008 which is titled as Hkqlaiknu & vkSjaxkckn & Hkkx c. On internal Page No. 3 in the opening and the second paragraphs, the land acquisition was carried out up to 45 mtrs. from the existing 30 mtrs. and the compensation was paid in terms of the erstwhile Land Acquisition Act, 1894. The argument is that this road at issue is a 45 mtrs. road.*
2. *We find that the above argument of Mr. More would be applicable to all the cases which we have heard today while delivering a detailed order dated 27.06.2025, in WRIT PETITION NO. 7558 OF 2025, KUSUMBAI LAXMAN NARWADE AND OTHERS VERSUS THE STATE OF MAHARASHTRA THROUGH ITS SECRETARY AND OTHERS and a group of cases. In this context, it would be the Corporation which will have to resort to a re-verification of its own records in the light of the Award dated 18.12.2008 to conclude as to whether the acquisition of land was to the extent of 45 mtrs. as in December 2008. If that be so, if the Authorities desire to increase the width of the land leading to the widening of the road till 60 mtrs., the land owners whose areas fall within 15 mtrs, from either side, if established, may have a right for compensation in the terms of the Land Acquisition, Rehabilitation and Resettlement Act, 2013.*
3. *Notwithstanding the above, any constriction 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 Sambhajnagar,*

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.*
7. *With the above observations, **this Petition is disposed off.***”

4. For the reasons stated in the above quoted order, we dispose of the present petition also on the same lines. Since the Petitioner claims that the structure which has been already demolished was a legal structure and that he had permission from the competent authority with regard to the said structure, it is kept open for the Petitioner to place the aforesaid claim along with supporting documents before the respondent – Corporation, which shall deal with the said claim in accordance with law on its own merits. The Petitioner is at liberty to approach the Respondent - Corporation within two weeks from today and the Respondent - Corporation is expected to deal with the said matter within three months thereafter.

5. The Writ Petition stands disposed of. Pending Application, if any, also stands disposed of.

(Y. G. KHOBRADE, J.)

(MANISH PITALE, J.)

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