



(This order is modified as per order dated 25.09.2025 passed in RA No.184 of 2025)

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

1 WRIT PETITION NO. 8367 OF 2025

**NA PRINTER BABA PETROL PUMP THR ITS AUTHORIZED
DEALER BURZIN JANGOO PRINTER**

VERSUS

THE STATE OF MAHARASHTRA AND OTHERS

....

Mr. Vishal P. Bakal, Advocate for the Petitioner

Mr. A. B. Girase, Government Pleader for Respondent Nos. 1 and 2

Mr. S. S. Tope and Mr. S. P. Urgunde, Advocates for Respondent
Nos.3 and 4 - Corporation

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

DATE : 10.07.2025

PER COURT :-

1. This Petition has been taken up urgently at 2.30 p.m. in the light of the request made by the learned counsel for the Petitioner mentioning at 10.30 a.m. in the morning that Bulldozers and JCB machines have reached the site of the petrol pump of the Petitioner and there is every likelihood of valuable rights of the Petitioner being violated by the Respondent Corporation under the garb of road widening and removal of encroachments.

2. The learned counsel for the Petitioner places reliance on commencement certificate dated 24.09.2007 as well as occupancy certificate dated 18.09.2012 to contend that in the face of such documents, the Respondent Corporation cannot be permitted to proceed with the action of demolition and consequent violation of the valuable rights of the Petitioner.

3. Upon the papers being served, the learned counsel appearing for the respondent Corporation took specific instructions. He submits that as far back in the year 2007, when building permits were granted, the Petitioner was made well aware of the fact that land upto 45 meters on the South and 35 meters on the East would be affected by road as per the development plan and that this aspect was clearly brought to the notice of the Petitioner.

4. It is further submitted that even the occupancy certificate refers to a Notarized agreement executed by the Petitioner, the terms of which were binding upon the Petitioner and yet the said document has been suppressed from this Court.

5. It is further submitted that even the plan submitted by the Architect of the Petitioner, which is a part of the Petition, shows that

the plot is affected on the South upto 45 meters and equally for the same reason on the East upto 35 meters by the road. On this basis, it is submitted that the contentions raised on behalf of the Petitioner are not justified. It is assured that while undertaking the task of widening of the road, *inter alia*, as per the directions issued by this Court in Public Interest Litigation, the Respondent Corporation shall not go beyond 45 meters on the South and the 35 meters on the East.

6. In this context, the learned counsel for the Petitioner submitted that the relinquishment-deed placed on record, shows that the terms of the said document recorded that the Petitioner would be entitled to FSI / TDR in future from the Respondent Corporation in respect of the affected area for the widening of the road.

7. The documents on record, particularly, the communications dated 06.06.2007 and 19.09.2007, addressed on behalf of the Respondent Corporation to the Petitioner, show that way back in the year 2007, the Petitioner was clearly aware of the manner in which the plot stood affected upto 45 meters on the South and 35 meters on the East in respect of the road in question. In fact, the Relinquishment-Deed dated 14.09.2007, upon which the Petitioner

placed much reliance, itself records that the land would be affected by the D.P. Road, and in the schedule, it is recorded that for the affected area, the Respondent Corporation would give FSI / TDR. The Commencement Certificate as well as the Occupancy Certificate, issued in the years 2007 and 2012 respectively, also indicate that the Petitioner was, all along, aware of the manner in which the plot was affected by the said D.P. Road.

8. In such circumstances, we find that, so long as the Respondent Corporation is undertaking the aforesaid impugned actions for widening of the road upto 45 meters on the South and upto 35 meters on the East plot of the Petitioner, no fault can be found in the said action. The Respondent Corporation has assured this Court through its Counsel that such action is limited to the aforesaid extent and not beyond that.

9. Therefore, the grievance raised by the Petitioner in the facts of the present case, is found to be without any merit..

10. Nonetheless, as per the promise handed out to the Petitioner with regard to the FSI/TDR in respect of the area that would be affected by road widening, the Respondent Corporation is

directed to ensure that the Petitioner is given benefit of the same in accordance with law.

11. The Writ Petition stands disposed of with the aforesaid observations. Pending Civil Applications, if any, also stand disposed of.

12. If the Petitioner applies for grant of such benefit of FSI/TDR within four weeks from today, the Respondent Corporation shall consider the same in accordance with law and pass an order thereupon as expeditiously as possible and preferably within three months from today. The respondent – Corporation shall treat the area of 97.85 square meters as the basis for granting such benefit of FSI / TDR, in the event the petitioner applies for such benefit.

[Y. G. KHOBRADE, J.]

[MANISH PITALE, J.]

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