



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

20 WRIT PETITION NO. 13969 OF 2025

Akil Sultan Khan And Another

VERSUS

The State Of Maharashtra And Others

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Advocate for Petitioner : Mr. Sanket S. Kulkarni h/f Y.H.Jadhav

AGP for Respondents : Mr. A. M. Phule

CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.

Dated : December 15, 2025

PER COURT :-

1. Present petition has been filed to challenge the speaking order/notice dated 9.10.2025 passed by the Assistant Director, Town Planning, Jalgaon Municipal Corporation for removal/demolition of the immovable property in survey no.16, plot no.92 by the petitioners.

2. Petitioners come with a case that father of the petitioners had purchased land bearing survey no.10/2 admeasuring 144 square meter situated at Meharun, Tq. & District Jalgaon on 29.12.1987 from one Avinash Gangadhar Mahajan. Thereafter, they have constructed house over the property that is in the year 1999 construction of first floor was made and thereafter in the year 2009-10, construction of second floor was made. Thereafter, Municipal Corporation was

established in Jalgaon City and father of petitioners/purchasers were paying house tax, water tax and other taxes those were levied. After death of their father, petitioners and their brother get their names recorded in the revenue record. It is then stated that son of one Hafizullakhan purchased plot no.92 from Survey No.16 admeasuring 35.20 sq. meters. Without any authority Mr. H.M. Khan has made a complaint to Jalgaon Municipal Corporation regarding the property belonging to the petitioners. The petitioners had received notices from Jalgaon City Municipal Corporation for hearing on 10.6.2025 and 26.6.2026. According to the petitioners, without making any spot inspection and panchnama, Town Planning Department Jalgaon, Municipal Corporation passed the impugned order dated 9.10.2025 for demolition of the petitioners property. Hence, this petition.

3. Learned advocate for the petitioners vehemently submits that when notice was given, then proper opportunity ought to have been given to the petitioners. Further in view of the judgment in case of **Sopan Maruti Thopate and others Vs. Pune Municipal Corporation and another reported in 1996 (2) ALL MR 383**, fifteen days notice was imperative. He submits

that, in fact, the petitioners, who had come with a limited prayer for granting an opportunity of hearing before the respondents authority, and till then, the status-quo should be directed to be maintained.

4. Here the petitioners are relying on sale-deed dated 29.12.1987 and copy of the same has been filed, which states that one Mohammad Salim Mohammad Hanif and Altaf Husain purchased the property from one Avinash Gangadhar Mahajan. Now, petitioners contend that those purchasers are father of petitioners, but then, there is no record to establish the said relationship. Another fact to be noted is that death certificate of Altaf Husain Gulam Mohammad has been produced, which states that he expired on 25.7.2020. At the most, he might be appeared to be father of petitioner no.2. The 7/12 extract states that 72 R land stands in the name of petitioner no.1 Akil Sultan Khan, but his sale-deed has not been produced. Now, as regards construction on the property is concerned, there is absolutely no document. As regards the impugned order is concerned, it is clear that notice in respect of the inquiry and asking the concerned persons i.e. including the present petitioners to produce the documents regarding the

construction was given on 29.1.2024. Thereafter, notice under section 52 and 53 under MRTTP Act was given on 19.3.2024, the complainant as well as petitioners were heard on 12.6.2024 and thereafter, the impugned order has been passed. Now, if as on date any right is still with the petitioners, then, it would be on the civil side and not by way of a writ petition. According to respondent no.3, the construction appears to be by way of encroachment. When, the disputed facts are now arising, which cannot be by way of writ jurisdiction under Article 226 and 227 of the Constitution of India that can be get resolved and, therefore, we do not find any merit in the present writ petition. It stands **dismissed** at the threshold.

(HITEN S. VENEGAVKAR, J.) (SMT. VIBHA KANKANWADI, J.)

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