



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

952 WRIT PETITION NO. 13872 OF 2025

Ashu Farms LLP Through It's Authorized Representative
Dhananjay Shrinivasrao Deshpande And
2. Nandkishor Laxminarayan Kagliwal
VERSUS
The State Of Maharashtra And Others

...
Advocate for the Petitioner : Mr. D.P. Palodkar a/w Mr. S.S. Khoche
AGP for Respondents: Mr.S.B. Pulkundwar
Advocate for Respondents : Mr. A.P. Bhandar
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CORAM : SMT. VIBHA KANKANWADI &
HITEN S. VENEGAVKAR, JJ.

Dated : November 21, 2025

PER COURT :-

1. Heard learned advocate for the petitioners.
2. Issue notice to the Respondents. Learned A.G.P. waives notice for respondent nos.1 and 2. Mr. Tope, learned counsel waives notice for respondent nos.3 to 5.
3. Petitioners states that they are the owners of part of survey no.50/1, which is lateron numbered as Gat no.78 part and 79 part. Those property of nos.(i) and (ii) is converted into CTS No.18816. The property-card shows ownership and possession of both the petitioners. According to the petitioners, construction has been made after obtaining

permission, however, they have received notice under section 260 of the Maharashtra Municipal Corporations Act, 1949 (for short hereinafter referred to as “MMC” Act). In fact, when they had replied the said notice, without deciding it and contending that petitioners have not replied, notice under section 478 (1) and (2) of the MMC Act has been issued. According to the petitioners, unless the land required for road widening is acquired in accordance with the law and compensation is determined, there could not have been any further action.

4. Mr. Tope, learned advocate for the Respondents Municipal Corporation has tried to rely upon the commencement certificate, wherein, there is stipulation specifically mentioned regarding vacant portion abutting the road as the property is abutting proposed State High Way. According to him, when that condition has been not adhered to, the notice was given under section 260 of the MMC Act.

5. Taking into consideration judgment of Hon’ble Supreme Court in case of **Municipal Corporation of Greater Bombay and others Vs. Sunbeam High Tech Developers Pvt Limited reported in (2019) 20 SCC 781**, we are not going into

the details and once it is admitted that notice under section 260 of MMC Act has been given, then, unless it is decided, the Municipal Corporation cannot proceed. It appears that petitioner no.1 has given reply to the said notice on 13.10.2025. There is also acknowledgment on behalf of Corporation on the same.

6. In view of this situation, learned advocate Mr. Tope appearing for respondents Corporation, upon instructions from Mr. Rahul Malkhede, Junior Engineer, Town Planning, Chhatrapati Sambhajanagar, who is present in the Court submits, that, if petitioners remain present in the office of Encroachment Observer on **Wednesday 26.11.2025** at 11.00 am, then, after hearing the petitioners, the decision would be taken and after communicating it to the Petitioners in writing within (2) two days, further action would be taken. Said statement is taken as an undertaking to this Court.

7. We **dispose of** the writ petition by giving directions to Respondent nos.3 to 5 to decide the notice under section 260 of the MMC Act as per undertaking and we further direct that **no further action** be taken for a period of one week after

the information about the decision is given to the petitioners, if the decision goes against the petitioners.

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

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