



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO. 19 OF 2024
WITH
CIVIL APPLICATION NO. 1728 OF 2024
IN WP/7741/2020
WITH
CIVIL APPLICATION NO. 2583 OF 2025
IN
CIVIL APPLICATION NO. 15017/2023
WITH
CIVIL APPLICATION NO. 15017 OF 2023
IN
CIVIL APPLICATION NO. 13506/2023
CIVIL APPLICATION NO. 13762 OF 2023
IN
CIVIL APPLICATION NO. 13506 OF 2023

1. Koushik Pravinchand Kothari,
Age 55 years, Occu. Agri Allied Business,
R/o Kachan Bungalow, Punammoti Nagar,
Ahmednagar, Dist. Ahmednagar.
2. Dhanashree Dhananjay Joshi,
Age 53 years, Occu. Agri Allied Business,
R/o Aousarkar Mala, Burudgaon, Rd.
Ahmednagar, Dist. Ahmednagar.
3. Nanasaheb Eknath Deshmukh,
Age 50 years, Occu. Agri Allied Business,
R/o Aanand Park, Sarasnagar, Ahmednagar,
District Ahmednagar.
4. Sangram Santosh Suryawanshi,
Age 32 years, Occu. Agri Allied Business,
R/o Bhavaninagar, Ahmednagar.
5. Komal Sandesh Munot, Age 32 years,
Occu. Agri Allied Business,
R/o Munot Estate, Station Road,
Ahmednagar, District Ahmednagar.
6. Nitin Popatlal Shingavi, Age 53 years,
Occu. Agri Allied Business, R/o Sourbha Nagar,
Bhingar, Ahmednagar, District Ahmednagar.

7. Kiran Amarlal Darda, Age 42 years,
Occu. Agri Allied Business,
R/o Market yard, Ahmednagar.
8. Bhaskar Vamanrao Pawar, Age 52 years,
Occu. Agri Allied Business,
R/o Shiv Banlow, Burudgaon, Road,
Ahmednagar, Dist. Ahmednagar.
9. Sourabh Anil Bhalgat, Age 32 years,
Occu. Agri Allied Business,
R/o Aanand Park, Saras Nagar Ahmednagar,
District Ahmednagar.
10. Dhanesh Ganeshmal Kothari,
Age 53 years, Occu. Agri Allied Business,
R/o Chhaya Banglow, Kinetic Chowk,
Ahmednagar, District Ahmednagar.
11. Dipali Dhanesh Kothari, Age 50 years,
Occu. Agri Allied Business, R/o Chhaya Banglow,
Kinetic Chowk, Ahmednagar, Dist. Ahmednagar.
12. Ritesh Ramesh Sonimandelecha,
Age 50 years, Occu. Agri Allied Business,
R/o Pushkaraj Banlow, Munot Estate,
Ahmednagar, Dist. Ahmednagar.
13. Rahul Sunil Aouti, Age 47 years,
Occu. Agri Allied Business, R/o Shinde Galli,
Maliwada, Ahmednagar, District Ahmednagar.
14. Avinash Bhanudas Pawar, Age 42 years,
Occu. Agri Allied Business, R/o Sakat Khurd,
Ahmednagar. District Ahmednagar.
15. Abhay Rasiklal Luniya, Age 48 years,
Occu. Agri Allied Business, R/o Sai Nagar,
Burudgaon, Road, Ahmednagar, District
Ahmednagar.
16. Rahul Subhash Sonimandelecha,
Age 43 years, Occu. Agri Allied Business,
R/o Near Bora Furniture, Saras Nagar,
Ahmednagar, District Ahmednagar.

17. Manisha Rahul Sonimandelecha,
Age 43 years, Occu. Agri Allied Business,
R/o Near Bora Furniture , Saran Nagar,
Ahmednagar, District Ahmednagar.
18. Mrunalini Yeshwant Darekar,
Age 45 years, Occu. Agri Allied Business,
R/o Sai Nagar, Nakshtra Lown,
Burudgaon Road, Ahmednagar.
19. Prasad Pramod Bora, Age 30 years,
Occu. Agri Allied Business,
R/o Anuraon Grand, Maniknagar,
Ahmednagar, District Ahmednagar.
20. Shobha Vijay Munot, Age 59 years,
Occu. Agri Allied Business,
R/o Munot Estate, Station Road,
Ahmednagar, District Ahmednagar.
21. Vidya Rajendra Sobale, Age 45 years,
Occu. Agri Allied Business, R/o Sutar Galli,
Kedgaon, Ahmednagar.
22. Ajit Nemichand Kasliwal,
Age 58 years, Occu. Agri Allied Business,
R/o C-5, Sandip Nagar, Saras Nagar,
Ahmednagar, District Ahmednagar.
23. Mangal Mahavir Chhajed, Age 50 years,
Occu. Agri Allied Business, R/o C-4,
Aanand Park, Saras Nagar, Ahmednagar,
Dist. Ahmednagar.
24. Sunita Rajendra Kothari, Age 48 years,
Occu. Agri Allied Business, R/o C-4,
Aanand Park, Saras Nagar, Ahmednagar,
District Ahmednagar.
25. Vijay Anbarchand Ghandhi, Age 58 years,
Occu. Agri Allied Business,
R/o Parshwanath Colony, Punammoti Nagar,
Ahmednagar, District Ahmednagar.
26. Vaibhav Vikram Dabhade, Age 50 years,

Occu, Agri Allied Business, R/o Minavikram
Bangalow, Near Ananrushiji Hospital,
Ahmednagar,

27. Vishal Vikram Dabhade, Age 52 years,
Occu. Agri Allied Business, R/o Minavikram
Bangalow, Near Anankrushiji Hospital,
Ahmednagar, District Ahmednagar.

... PETITIONERS

VERSUS

1. The State of Maharashtra
Through its Principal Secretary,
Urban Development Department,
Mantralaya, Mumbai-400 032.
2. The Ahmednagar Municipal Corporation
Ahmednagar,
Through Its Municipal Commissioner.
3. The Assistant Director of Town Planning,
Municipal Corporation, Ahmednagar.
4. The Agriculture Produce Market Committee,
Ahmednagar, Kisan Kranti Bldg.,
Station Road, Market Yard, Ahmednagar,
Through its Secretary.
5. Dilip Nanabhau Satpute, Age 48 years,
Occu. Social Service, R/o Bhushan Nagar,
Ahmadnagar.
6. Ahmadnagar Vegetable Fruits,
Merchants Association
Through its Authorized Representative

... RESPONDENTS

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Mr. S.S. Thombre, Advocate for the petitioners in W.P. No. 19/2024 and for
Applicant in C.A. No. 13762/2023.

Mr. S.R. Wakale, A.G.P. for Respondent no. 1.

Mr. V.D. Hon, Senior Advocate, i/by Mr. K.N. Lokhande, Advocate for
Respondent no. 3

Mr. G.K. Naik Thigle, Advocate for Respondent nos. 5 and 6 in WP No.
19/2024 and for Applicant in C.A. No. 1728/2024.

Mr. R.N. Dhorde, Senior Advocate, i/by Ms. Rekha M. Mohale, Advocate for
APMC Ahmednagar and for Applicant in C.A. No. 15017/2023.

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CORAM	: MANGESH S. PATIL & Y. G. KHOBRAGADE, JJ.
RESERVED ON	: 24.04.2025
PRONOUNCED ON	: 09.05.2025

JUDGMENT : (MANGESH S. PATIL, J.)

Heard. Rule. It is made returnable forthwith. The learned A.G.P. Wakale waives service for respondent no. 1. Mr. Hon, Senior Advocate i/by Mr. Lokhande, learned advocate waives service for respondent no. 3 Municipal Council, Ahilyanagar. Learned advocate Mr. Naik-Thigle waives service for respondent nos. 5 and 6 and Mr. Dhorde, Senior Advocate i/by Ms. Rekha Mohite waives service for respondent no. 3 Agricultural Produce Market Committee, Ahilyanagar (APMC).

2. The petitioners claim to be allottees-lease holders of different shops erected over plot no. 23 under the town planning scheme No. 3 of Ahmednagar, owned by respondent no. 4-Agricultural Produce Market Committee, Ahilyanagar (the APMC). They are coming with following prayers.

“B) By issuing a writ of mandamus, orders, directions or any other appropriate writ in like nature, Respondent Nos. 2 and 3 may kindly be directed to regularize the shops (existing structures on plot no. 23) of the petitioners existing on the area of land belonging to Respondent No.4-Committee, as per the Revised layout plan sanctioned by Respondent No.3 vide order dated 12th December, 2023;

C) By issuing an appropriate writ, order or directions, as the case may be, the respondent Nos. 2 and 3 may kindly be restrained from demolishing the shops (existing structures on plot no. 23) of the petitioners existing on the area of land belonging to Respondent No.4-Committee, and further restraining them from taking any coercive action against the petitioners in view of subsequent development occurred after

passing the order by the Hon'ble Supreme Court, referred to above."

3. It is imperative that there is some narration of the chronology of events leading to filing of the petition.

(a) The Deputy Commissioner of respondent no. 2 namely the Ahmednagar Municipal Corporation now Ahilyanagar, by an order dated 21.07.2018, rejected the proposal submitted by APMC for regularization of construction of petitioners' shops.

(b) Pursuant to such order, even the APMC by communication dated 01.08.2018 called upon these petitioners to act pursuant to the order.

(c) The APMC preferred an appeal before the State Government, which was dismissed by the learned Minister of the Urban Development on 15.07.2019, resulting in confirmation of the order passed by the Deputy Commissioner dated 21.07.2018.

(d) Different groups of the lease holders of the shops, including the petitioners, filed separate petitions, Writ Petition Nos. 8894/2012, 8946/2012, 9013/2018, 9022/2018, seeking regularization of the shops and objecting to the demolition.

(e) Simultaneously, the APMC filed Writ Petition No. 7741/2020, challenging the order of the learned Minister dismissing its appeal on 15.07.2019.

(f) Respondent no. 6-Ahmednagar Vegetable Fruits Merchants Association filed Writ Petition No. 11220/2021 seeking demolition of all these shops.

(g) All these petitions were decided by a division bench of this Court on 30.06.2023. The petitions of the lease holders including these petitioners were dismissed. Even the writ petition filed by the APMC was

dismissed. The petition filed by respondent no. 6 was partly allowed. The Municipal Corporation was directed to take necessary steps for removal of illegal, unauthorized construction/encroachment over plot nos. 17 and 23, in pursuance of the notices, which were already served on the APMC under Section 52, 53, 54 of the Maharashtra Regional Town Planning Act, 1966 (MRTP Act) read with Section 260(1), 260(2) and Section 478 of the Maharashtra Municipal Corporation Act, 1949 (MMC Act) within three months.

(h) Respective shop owners preferred different Special Leave to Appeal/s before the Supreme Court. By order dated 21.08.2023 in Special Leave to Appeal (Civil) No. 17414/2023, all the SLPs were dismissed with following order:

“ We do not find any good ground and reason to interfere with the impugned judgment and hence, the special leave petitions are dismissed.

However, we clarify that the impugned judgment/order and the dismissal of the present special leave petitions would not come in the way of the Agriculture Produce Market Committee, Ahmednagar, in filing an application for change of the layout plan or for construction of shops in areas where such shops are permitted to be constructed. If any such application is filed, the same would be considered and examined in accordance with law and as expeditiously as possible.

The Agriculture Produce Market Committee, Ahmednagar will be permitted to use open plots in accordance with law.

Pending application(s), if any, shall stand disposed of.”

(i) Taking aid of the aforementioned paragraph no. 2 of the Supreme Court order, the APMC, by communication dated 21.08.2023 (Exh. C) addressed a letter to the Municipal Corporation, narrating the aforementioned facts, and requested that pursuant to Unified Development Control and Promotion Regulations (UDCPR) clause No. 3.4.3, for alteration in the layout scheme, considering the fact that the shops in question were erected over plot Nos. 17 and 23, which were earmarked as open spaces and

submitting that in order to save those, open space that was available, has been earmarked in exchange, and prayed for grant of permission to such changed layout at the earliest.

(j) The Municipal Corporation forwarded the proposal to Director of Town Planning Pune on 27.09.2023 (Exh. D), and an opinion was solicited narrating all the aforementioned circumstances.

(k) By representation dated 23.08.2023 (Exh. E), the petitioners again requested the Commissioner, Municipal Corporation to not to demolish the shops on the final plot no. 23.

(l) Writ Petition Nos. 7741/2020 and 11220/2021 were mentioned before the division bench of this Court on 27.10.2023. After hearing the learned advocate for the APMC, the advocate for respondent no. 6 Ahmednagar Vegetable Fruits, Merchants Association, the learned A.G.P and the learned advocate for the Municipal Corporation, following order was passed:

“Writ Petition No. 11220/2021 is not on board. By consent, taken on board.

2. Considering the direction of the Hon'ble Supreme Court vide order dated 21.08.2023 passed in Special Leave to Appeal No.17414/2023, we grant time to the A.P.M.C. to remove the encroachment/structure voluntarily and if required the A.P.M.C. can seek assistance of the Municipal Corporation and apprise the Court about the same on the next date. The Municipal Commissioner of Ahmednagar Municipal Corporation would remain present in the Court on the next date, in view of the communication on the part of the Corporation in not complying with the judgment delivered by this Court on 30.06.2023 in Writ Petition No.7741/2023 which has been upheld by the Hon'ble Supreme Court.

3. List this petition on 04.11.2023 in the urgent orders category.”

(m) The APMC challenged this order before the Supreme Court in Special Leave Petition (Civil) Diary No. 45937/2023. It was dismissed on 03.11.2023 with follow order:

“Upon mentioning, the matter is taken on board.

We are not inclined to interfere with the impugned judgment and hence, the special leave petitions are dismissed.

Pending application (s), if any, shall stand disposed of.”

(n) In spite of the aforementioned happenings, since the demolition was not taking place, the Commissioner of the Municipal Council was called upon to remain personally present before the high court and to place on record the compliance report.

(o) An attempt was made by the Commissioner, Municipal Corporation to explain the fact situation without undertaking actual demolition. The attempt was met by following order, on 08.11.2023:

“By the judgment dated 30.06.2023 in Writ Petition No.7741/2020 (Agricultural Produce Market Committee vs. The Hon'ble Minister, Urban Development Department and others) and other group of petitions, including Writ Petition No.11220/2021, this Court concluded the issue as regards the encroachments made by certain people. The said judgment was assailed before the Honourable Supreme Court in Petition for Special Leave to Appeal (C) No.17414/2023. By order dated 21.08.2023, the SLP was dismissed and in addition, the Honourable Supreme Court recorded as under:-

"However, we clarify that the impugned judgment/ order and the dismissal of the present special leave petitions would not come in the way of the Agriculture Produce Market Committee, Ahmednagar, in filing an application for change of the layout plan or for construction of shops in areas where such shops are permitted to be constructed. If any such application is filed, the same would be

considered and examined in accordance with law and as expeditiously as possible.

The Agriculture Produce Market Committee, Ahmednagar will be permitted to use open plots in accordance with law."

2. *Since this Court, vide judgment dated 30.06.2023, had directed the compliance report to be filed, the matter was listed before this Court. On 27.10.2023, we issued a direction, which is set out in paragraph 2, as under:-*

"2. Considering the direction of the Hon'ble Supreme Court vide order dated 21.08.2023 passed in Special Leave to Appeal No.17414/2023, we grant time to the A.P.M.C. to remove the encroachment/ structure voluntarily and if required the A.P.M.C. can seek assistance of the Municipal Corporation and apprise the Court about the same on the next date. The Municipal Commissioner of Ahmednagar Municipal Corporation would remain present in the Court on the next date, in view of the communication on the part of the Corporation in not complying with the judgment delivered by this Court on 30.06.2023 in Writ Petition No.7741/2023 which has been upheld by the Hon'ble Supreme Court."

3. *The learned Senior Counsel Shri Dhorde fairly points out to us that the Agriculture Produce Market Committee (APMC) had assailed the above reproduced order dated 27.10.2023 before the Honourable Supreme Court in Special Leave Petition (Civil) Diary No.45937/2023. By order dated 03.11.2023, the Honourable Supreme Court stated that "We are not inclined to interfere with the impugned judgment and hence, the special leave petitions are dismissed."*

4. *It is thus, obvious that the APMC has to remove encroachments/ structures, voluntarily. The learned Senior Advocates Shri Dhorde and Shri Hon, representing the APMC and Municipal Corporation, respectively, submit that there is no hindrance and they are cooperating with each other.*

5. *Shri. Thigale, the learned Advocate representing the original Petitioners in Writ Petition No.11220/2021, submits that the Municipal Corporation should not be permitted to protect the encroachment.*

6. *In view of the above, we would expect the Municipal Corporation to comply with our directions dated 27.10.2023 in the light of the SLP having been dismissed by the Honourable Supreme Court.*

7. *For the above purpose and to tender a compliance report, which shall be in tune with the judgment of this Court dated 30.06.2023, the order of the Honourable Supreme Court dated 21.08.2023, the directions of this Court dated 27.10.2023 and the order of the Honourable Supreme Court dated 03.11.2023, time is extended till 15.12.2023. The Commissioner of the Municipal Corporation shall note that we would not extend the time even by a day.*

8. *Place the compliance report before the Court on 18.12.2023. Place the matter on 18.12.2023 in the urgent orders category.*

9. *The Civil Application No.13506/2023 is disposed off.”*

(p) In tune with such directions, the matters appeared before this Court on 06.12.2024. After hearing the parties and by noticing and expressly noting/incorporating the order dated 08.11.2023 (supra), following additional observations were made in paragraph Nos. 5 to 8:

“5. It appears that the Commissioner of the Municipal Corporation addressed a letter to the Registrar of this Court dated 13/14.12.2023, inter alia mentioning and informing the Court that the application of the A.P.M.C. Ahmednagar dated 21.08.2023, for revision of the layout was pending with the Corporation and the Corporation by its communication dated 27.08.2023, had solicited opinion from the Director, Town Planning, Pune. It further mentions that as per the Development Control Regulations,

the proposal for modification of the layout has been sanctioned provisionally and it is only after the Office of Deputy Inspector of Land Records carried out the measurements that the final sanction would be accorded and it is thereafter that the disputed construction would be regularized. It further informs that it is only after request is received for regularization of the construction, after considering the comprehensive development plan, regulations and in accordance with the provisions of Section 143 of the Maharashtra Regional and Town Planning Act, 1966, by receiving the development and other allied charges, the construction can be regularized.

6. Once having noticed that the Supreme Court had refused to interfere in the order passed by this Court in the writ petition directing demolition/removal of the encroachment, in our considered view, the A.P.M.C. as well as the Municipal Corporation have not been taking any effective steps for demolition/removal of the encroachment.

7. Even if it is a matter of record that the Supreme Court while dismissing the Special Leave Petition had clarified that dismissal of the Special Leave Petition would not come in the way of the A.P.M.C, in filing an application for change of the layout plan or for construction of shops in areas where such shops were permitted to be constructed and expecting any such application to be considered and examined in accordance with law and even permitting the A.P.M.C. Ahmednagar to use the open plots, in accordance with law, the order cannot be interpreted to mean regularization of any unauthorized construction which was directed to be demolished.

8. We are of the considered view that neither the A.P.M.C. nor the Municipal Corporation has been obeying the directions of this Court, confirmed up to the Supreme Court and have been able to dodge the order. Let the A.P.M.C. Ahmednagar and the Municipal Corporation implement and execute the order of this Court within eight weeks and report compliance.”

(q) In the meantime, even review applications were filed by different petitioners regarding the original order passed in Writ Petition No. 9013/2018 and connected matters. By the order dated 13.12.2023, even the review applications were dismissed.

(r) This petition, with the aforementioned prayers was filed on 18.12.2023. The petition together with different civil applications was mentioned before the Court on 04.01.2024.

(s) The petition then appeared before the Court on 19.01.2024 and the notices were directed to be issued keeping open the aspect of maintainability of the petition.

4. After the pleadings are completed, with the consent of both the sides, the petition is taken up for final adjudication.

5. Mr. Thombre, learned advocate for the petitioners vehemently submitted that the Supreme Court, in its first order, had expressed and clarified that the APMC could file application for change of the layout plan or for construction of shops in areas where such shops are permitted to be constructed and expected consideration of such application if it was so filed, as expeditiously as possible. He would submit that even the APMC was permitted to use the open plot in accordance with law. He would submit that pursuant to such observations, the steps were taken by the APMC. The layout was changed. The portion covered by the petitioners' shops in question was substituted by earmarking the open space elsewhere, which is permissible in law and even UDCPR allow such change. The Municipal Corporation granted permission for such change.

6. He would submit that, it is a matter of demolition of shops, stated to have been constructed over space earmarked as an open space of the APMC, but the change was permissible and in stead of demolition, the portion covered by the shops has now been shown in the portion where the

construction is permitted and the requisite open space has been carved out and earmarked distinctly. The purport of clarification of the Supreme Court was to save the cost of the construction and was aimed at ensuring that there is a layout with sufficient open space.

7. Mr. Thombre would submit that the petitioners have invested huge money and have been using the shops for decades and it would cause grave hardship if, still, the shops are demolished and hence petitioners are coming with aforementioned prayers *bona fide*.

8. Mr. Dhorde, the learned Senior Advocate for the APMC submits that indeed, requisite change in the layout was proposed, which is permissible under the UDCPR. The change has been permitted by the Municipal Corporation.

9. Mr. Hon, learned Senior Advocate for the Municipal Corporation referring to the affidavit in reply filed by extant Commissioner would submit that the revised plan submitted by the APMC has already been sanctioned on 13.03.2024. The APMC has also submitted application for regularization of the construction of the shops by its application dated 29.03.2024. His predecessor even provisionally regularized the construction, expressly mentioning that it would be subject to the final outcome of the proceedings pending before the High Court. No final permission for regularization has been issued.

10. Mr. Hon would then submit that the original layout plan that was sanctioned in the year 2001 was merely a tentative plan. The Municipal Corporation, being a planning authority, has power to revise the layout plan. Since it was not final, it has been acting fairly and has no intention to defy the orders of this Court. There was no political pressure and the Municipal Corporation would act as per the directions of this Court.

11. Mr. Thigale-Naik, the learned advocate for respondent nos.5 and 6, by referring to the affidavit of respondent no.5 and after narrating the aforementioned events, would take strong exception to the stand, not only on behalf of the shop owners, but even that of the APMC and the Municipal Corporation. He would condemn the stand of these statutory bodies and their endeavour to somehow protect the petitioners' shops, even if that is in defiance of the directions of this Court, issued time and again, and confirmed up to the Supreme Court.

12. He would submit that there was no escape from the original order passed by this Court, calling upon the Municipal Corporation to demolish the shops and to report compliance. He would submit that even there is no scope for this Court to embark upon and examine the conflicting rights of the parties. He would submit that the division bench expressly interpreted the clarification of the Supreme Court in its order dated 21.08.2023 and also discarded the stand of the petitioners and that of the APMC in the order dated 23.02.2024. The subsequent orders and observations of this Court, by referring to all these aforementioned orders, not only of the previous division benches, but even that of the Supreme Court passed from time to time and expressly observing that irrespective of the clarification of the Supreme Court order dated 21.08.2023, there was no scope for deviation from the original direction for demolition of the shops constructed illegally and contrary to the layout and the development plan.

13. He would submit that the petitioners, the APMC and the Municipal Corporation have been persistently acting in collusion in defying the directions of this Court and are rather guilty of contempt. The statutory bodies are supposed to act fairly. If the statutory bodies are bold enough to take the law in their hands in utter disregard to the directions of this Court, not once but successively, on several occasions, not only the petition is liable to be dismissed, but even strong action needs to be initiated against the APMC and the erring officials of the Municipal Corporation.

14. The petitioners have also filed a rejoinder in response to the stand being taken by respondent no. 5 and 6 in their affidavit in reply. In this rejoinder, again, the aforementioned facts have been narrated further attributing personal interest to respondent no. 5, alleging that he is a leader of a political party and a businessman, who is hellbent in harassing everybody.

15. The rival submissions now fall for our consideration.

16. We are of the considered view that though the learned Senior Advocates and the advocate for petitioners addressed us on several aspects, touching the UDCPR and the right of the planning authority to grant permission for modification/alteration of the layout, however, we are of the firm view that such stand of the petitioners, the APMC and the Municipal Corporation is really out of context.

17. The issue that needs to be addressed is as to if the clarification granted by the Supreme Court while dismissing the SLP was with a view to grant some protection to the illegally constructed shops of the petitioners, which were admittedly contrary to the sanctioned layout plan albeit, stated to be temporary.

18. In our view, even this aspect is now not open for us for consideration. The order dated 08.11.2023 of the division bench of this Court, touching interpretation of the clarification granted by the Supreme Court and further observations in paragraph Nos. 5 to 8 of the order dated 06.12.2025 are nail in the coffin. If it can be said so, these orders seal the fate of the matter. The two division benches, on earlier occasions, in spite of similar stand being taken by the petitioners, the APMC and the Municipal Corporation, and considering the scope of the liberty granted by the Supreme Court, have emphatically concluded that there was no escape from actual demolition of the shops. In our view, in the teeth of the earlier orders of the division benches (supra), this court cannot allow any other interpretation to be

placed on the observations of the Supreme Court. Least it can be said that the Supreme Court intended to save the illegally constructed shops and wished those to be saved by changing the layout.

19. As has been rightly pointed out by Mr. Thigale, there are several orders of this Court, expecting the demolition to take place and expecting the Municipal Corporation and the APMC to obey the directions of this Court, which have reached finality. Many orders passed by this Court subsequently, were carried to the Supreme Court but the Special Leave Petitions, were dismissed.

20. Mr. Dhorde, the learned Senior Advocate addressed us by referring to the decision in the matter of **Kunhayammed and others Vs. State of Kerala and another; AIR 2000 Supreme Court 2587**; to explain the doctrine of merger when the Supreme Court dismisses the SLPs. We are afraid, the submission is out of place. To repeat, the scope of the clarification issued by the Supreme Court, in the order dated 21.08.2023, has also been gone into, considered and decided by the division benches of this Court at least twice. Therefore, even this division bench cannot legally resort to any incompatible observation and conclusion.

21. The very fact that admittedly, the shops in question were constructed illegally, that too, on an open space from the layout, there has to be zero tolerance. The fact situation in the matter in hand is eloquent enough to buttress a common man's perception that irrespective of involvement of two statutory bodies, the citizens, like the petitioners, who are all businessmen can delay demolition of unauthorized and illegal construction, in spite of repeated directions of the High Court as confirmed up to the Supreme Court. In our considered view, the fate of the society in the rule of law would stand reinforced only if the demolition take place as ordered by this Court.

22. In the light of above, we see no substance in the petition except that it is yet another attempt to protract actual demolition of the petitioners' shops.

23. The writ petition is dismissed with costs of Rs. 1,00,000/- (Rs. One Lakh only).

24. Pending applications are disposed of.

25. Rule is discharged.

(Y. G. KHOBRADE, J.)

(MANGESH S. PATIL, J.)

26. After pronouncement of the judgment, the learned advocate for the petitioners submits that the statement made on behalf of the Municipal Corporation by the learned advocate on 24.04.2025, may be continued.

27. The learned advocate Mr. Thigle for respondent nos. 5 and 6 opposes the request and adverts our attention to the first order passed on 07.03.2025 and the last order before the matter was reserved for judgment that is on 23.04.2025.

28. We have considered the request and perused the papers.

29. Indeed, on 07.03.2025, the learned Senior Advocate for the Municipal Corporation made a statement that the *status quo*, as on that date, would be maintained till the next date that was 13.03.2025.

30. However, after we closed the arguments and reserved the matter for passing final judgment on 24.04.2025, though the learned Senior Advocate reiterated the statement regarding maintaining the status quo, it was expressly observed in paragraph no. 5, that it was a statement of the learned Senior Advocate on behalf of the Municipal Corporation, but with a clarification that it shall not be regarded as a stay to the execution of the original order.

31. In the light of such earlier observation, the request, specifically referring to the statement of the learned Senior Advocate to maintain *status quo* be a part of this order, is rejected.

(Y. G. KHOBRADE, J.)

(MANGESH S. PATIL, J.)

mkd