



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

WRIT PETITION NO.7517 OF 2025

1] Sunil Shri Ramlal Jaiswal
2] Sachin Shri Ramlal Jaiswal ... Petitioners

VERSUS

The State of Maharashtra and Ors. ... Respondents

....

WITH

WRIT PETITION NO.7559 OF 2025

Pramod Satyanaaryan Jaiswal ... Petitioner

VERSUS

The State of Maharashtra and Ors. ... Respondents

...

Advocate for the Petitioner/s : Mr. Vishal P. Bakal
AGP for the Respondents – State : Mr. A. B. Girase
Advocate for Respondent No. 3 : Mr. S. S. Tope and Mr. S. P. Urgunde

...

CORAM : RAVINDRA V. GHUGE &
Y. G. KHOBRAGADE, JJ.

DATE : 24.06.2025

PER COURT:

[I] In Writ Petition No.7517/2025 :

1. After this matter was heard for sometime, the learned Advocate for the Petitioners submits on instructions from the Petitioners present in the Court, that they concede that they have erected about 20 to

25 shops of tin structures, unauthorisedly. This is in Gut No.738/1. The Petitioners would take away all the belongings which are preserved in the said tin shades and on 26.06.2025, the authorities of the Municipal Corporation, more specifically the Head of the encroachment department, would proceed to demolish all the tin shades. Thereafter, if the Petitioner desires to carry their tin sheets or such fixtures as can be carried by them, they would be at liberty to take them.

2. Insofar as Chikalthana Gut Nos.406 and 420 are concerned, these are plots claimed to be beyond the proposed 60 mtrs. width of the road. It is contended that the Corporation is actually taking steps to increase the width of the road from 30 mtrs to 60 mtrs. This statement is contradicted by the learned Advocates for the Corporation.

3. It is frankly stated by the Petitioners that the dwelling houses constructed by these Petitioners over Gut No.406 and 420, do not have any building and construction permission from any statutory authority. A statement is made by the Petitioners that these structures would be removed / demolished by the Petitioners themselves.

4. The learned Advocates for the Corporation Shri. Tope and Shri. Urgunde submit on instructions that they have the entire set up and

machinery today, along with the appropriate police protection, to remove these structures in the light of the clear admission that there is no construction permission. The Petitioners submit that insofar as the tin shades in Gut No.738 are concerned, by sunset tomorrow, that is on 25.06.2025, the entire tin shades would be removed and the belongings would be taken away. Insofar as the concrete rooms which have been constructed, the same would be demolished by sunset on Thursday 26.06.2025. If this is not done, the Corporation can proceed on 27.06.2025, for the removal of such concrete structures.

5. We caution the Petitioners as well as their friends and sympathizers, that there shall be no obstruction in the path of the statutory authority while they remove the structures. An opportunity is being given to them to remove all the structures as recorded above and they should not resort to any physical obstruction or agitation.

6. We make it clear that the issue as to whether the road commencing from Mukundwadi to Cambridge School is a 30 mtrs. road or a 60 mtrs. road, would be dealt with by the statutory authorities by following the due procedure laid down in law. If it is noticed that the road already was earmarked for a 60 mtrs. width road and any of the individuals have encroached upon any land beyond 30 mtrs. of the width

within 60 mtrs., the authorities would follow the due procedure and remove the structures and get the said land vacated.

7. If it is noticed on the basis of the records that the road was indeed only 30 mtrs. width and the authorities will now have to acquire the land for widening of the road, then the law applicable would be duly followed and if any of the individuals are found to be entitled for compensation on account of acquisition, steps would be initiated by the competent authority. The learned Advocates for the Corporation reiterate that the Right of Way (ROW) is available to the statutory authorities and it is not that because the asphaltting of the road was only 30 mtrs. that the ROW does not exist.

8. With the above observations and having recorded the statements of the Petitioners as made to the Court, **this Writ Petition is disposed off.** Disobedience of the statements made before the Court, would entail criminal consequences with liberty to the Corporation to file an F.I.R., as well as Contempt of Court.

9. The learned A.G.P. submits that he is expressing his views in his capacity as a vigilant citizen and not as a Government Pleader by stating that the Corporation must always be diligent and vigilant and the

officer should equally be law abiding and ensure that once such encroachments are removed, they will keep a constant vigil and ensure that there is no further encroachment. Shri. Tope, on instructions submits that the Corporation supports the statement of Mr. Girase.

[II] In Writ Petition No.7559 / 2025 :

1. The Petitioner before us is the distant relative of the earlier Petitioners. There are certain tin-sheet shops standing in CTS No.74 at village Chikalthana and a dwelling house in CTS No.84.

2. Insofar as the tin shops are concerned, he submits that the same order passed in the aforesaid Petition be made applicable to the present Petitioner as well.

3. With regard to the dwelling houses in CTS No.84, he submits that firstly there is a Circular dated 10.02.2001, which would indicate that the demolition of dwelling houses on being identified as encroachment and illegal structures, should be initiated after 30th September of a given year. This is the policy of the State Government.

4. Shri. Tope and Shri. Urgunde submit that there are exceptions to such demolitions and if the structure of the Petitioner cannot be

protected on account of the coverage of the exceptions, the Corporation will have to take steps to demolish the said structure.

5. The learned Advocate for the Petitioner submits on instructions from the Petitioner present in the Court that the dwelling house in C.T.S No.84, does not have a construction permission. He has title documents to the property. If given an opportunity, he would approach the Corporation and would make out a case for establishing his title. If there is any provision available for regularization of the structure or for making an Application for Gunthewari regularization, he would do so within [1] one week from today.

6. The learned Advocate Shri. Tope and Shri. Urgunde submit that they would not regularize any structure which falls within the 60 meter road and the ROW. There will be no Gunthewari regularization in this area. Hence, any dwelling falling within this area of 60 mtrs. will have to be demolished. The Application to be filed by the Petitioners for regularization should be strictly in accordance with the procedure and should be accompanied with such documents as are mandatorily required to be filed. If the documents are not in order or if the Corporation notices shortcomings and deficiencies, they may pass appropriate orders.

7. In view of the above, considering the order passed in the aforesaid Petition, the tin-shades and shops would be removed by the Petitioner by sunset tomorrow, i.e. 25.06.2025. With regard to the request for Gunthewari regularization, he can make an Application to the Corporation within seven [7] days from today. Any area falling within the width of the 60 mtrs. road for the present and without any building construction permission, be demolished by the Petitioner himself, keeping in view the directions set out in Paragraph No.91 of the Judgment of the Honourable Supreme Court in Writ Petition Civil No.295/2022 and connected matters, delivered on 13.11.2024. In the event the Petitioner succeeds in pointing out a land to which he has a title and which would fall within the area to be acquired, needless to state, the authorities would be bound to follow the due process of law and ensure payment of compensation in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

8. With the above directions, this **Writ Petition is disposed off.**

(Y. G. KHOBRAGADE, J.)

(RAVINDRA V. GHUGE, J.)