

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 12193 OF 2025

Abbas Sikandar Sutar and Others. ...Petitioners.

Versus

The State of Maharashtra and Others. ...Respondents.

Mr. Kalpesh Patil for the Petitioner.

Mr. V. M. Mali, AGP for the Respondent-State.

Mr. Ajit Hon for the Respondent No. 3.

**Coram : M. S. Karnik &
Ajit B. Kadethankar, JJ.**

Date : December 24, 2025.

P. C. :

1. Heard learned Counsel for the Petitioners.
2. It is the contention of learned Counsel for the Petitioners that Petitioners have been residing in the temporary structures constructed in the property which is mentioned in the cause title of petition, for last 2 decades.
3. Learned Counsel for the Petitioners vehemently submitted that Petitioners have a right to life which has to be protected in terms of Article 21 of Constitution of India. It is submitted that except for the temporary structures, Petitioners do not have any other place for accommodation. It is further contention of learned Counsel for the Petitioners that if the notices issued under Section 53(1A) of the

Maharashtra Regional and Town Planning Act, 1955, which are impugned in this petition, are executed, the Petitioners will be virtually forced to live on streets and this will be in violation of fundamental right of the Petitioners to have a shelter. It is further submitted that Respondent-Akkalkot Municipal Council, which is an instrumentality of "State", is expected to look after the welfare of the residents of Akkalkot municipal council and is obliged to provide for necessary alternate accommodation to the Petitioners. In support of his submissions, learned Counsel for the Petitioners relied upon the decision of the Hon'ble Supreme Court in ***Olga Tellis v. Bombay Municipal Corporation [(1985) 3 SCC 545]***.

. Learned Counsel for the Petitioners in support of his contention that every citizen is entitled to residential accommodation, relied upon Government Resolution dated 6th March 2019.

4. We have heard learned Counsel for the Respondent-Council, who opposed the petition.

5. We had called upon the Petitioners to produce on record any permission obtained for putting up temporary structures. The structures have been put up on the land which belongs to the municipal council. The municipal council needs the land for public purpose inasmuch as in view of the directions of the Hon'ble Supreme Court, the sewage treatment plant is to be constructed and put up by

the the Respondent Council within a period of 24 months from October 2024. It is submitted that for setting up necessary infrastructure, the unauthorised structures have been identified. It is submitted that if at all any order is passed by this Court protecting the unauthorized structures of the Petitioners, there will be difficulty on the part of municipal council in meeting the deadline given by the Hon'ble Supreme Court.

6. The Petitioners have not placed any document / plan on record to indicate that structures in question have any authorization or any permission has been obtained while putting up the said structures. Structures are on the land which belongs to the municipal council. We had indicated earlier that it is not possible for this Court to grant reliefs as prayed for in this petition.

7. Further, if it is the case of Petitioners that they are entitled to alternate accommodation, it is always open to the Petitioners to pursue the matter with the competent authorities for implementation of Government Resolution dated 6th March 2019 if the Petitioners are covered by the said GR. Such liberty is kept open.

8. Faced with this difficulty and after a disinclination was expressed by this Court to grant any interim relief or entertain this petition, learned Counsel for the Petitioners has filed an affidavit of Petitioner No. 1 Abbas Sutar stating thus :

"1. The Petitioners have filed the aforesaid Petition challenging the notices dated 19.05.2025 and 11.08.2025 and 30.10.2025, issued by Chief officer Akkalkot Municipal council.

2. I say that, the Petitioners have constructed temporary residential structures in property bearing CTS No.567, Manik Peth, Akkalkot, Dist: Solapur.

3. I say that, the Petitioners hereby undertake to remove the temporary structures raised by the Petitioners on CTS No. 567 Manik Peth, Akkalkot, Dist: Solapur, within a period of three months from today, ie on or before 24.03.2026.

4. I say that, the Petitioners hereby also undertake and agree to peacefully vacate and hand over possession of the premises to the Akkalkot Municipal Council, Akkalkot within three months from today, ie on or before 24.03.2026.

5. That I make this affidavit in good faith, knowing that the contents in the said affidavit are binding upon the Petitioners in the aforesaid Writ Petition.

6. The said affidavit is filed by me on behalf of all the Petitioners, after discussion and receiving instructions from all the Petitioners."

9. Learned Counsel for the Petitioners submitted on instructions that reasonable time may be granted to the Petitioners to remove the temporary structures, as any action of demolition carried on by the Respondent municipal council is likely to cause heavy damage to the structures as also to the belongings of Petitioners who even otherwise are poor. We find this submission of learned Counsel for the Petitioners reasonable.

10. Learned Counsel for the Respondent Municipal Council nonetheless opposed such request for granting time to the Petitioners to remove the structures as municipal council is expected to meet the deadline given by the Hon'ble Supreme Court.

11. The affidavit filed by Abbas Sikandar Sutar on behalf of himself and other Petitioners is taken on record and marked "X" for identification.

12. We do not find any merit in the petition. However, in the interest of justice, we are inclined to grant time of three months from today to the Petitioners to remove the temporary structures raised by them. In case, the temporary structures are not removed by the Petitioners within three months from today, it would be open for the municipal council to proceed to take appropriate action for the purpose of implementing the notices issued under Section 53(1A) of the MRTP Act, 1955. With these observations, writ petition is rejected.

[Ajit B. Kadethankar, J.]

[M. S. Karnik, J.]