

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

WRIT PETITION NO. 12778 OF 2025

Rushi Constructions

... Petitioner

Versus

State of Maharashtra & Ors.

... Respondents

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SHIVAJI
JAGTAP

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Mr. Surel Shah, Senior Advocate i/b Ishaan Kapse for the Petitioner.
Mr. R.S. Alange a/w V.S. Kupwade for the Respondent Nos. 2, 3 and 4
Mr. S.B. Kalel, AGP for the Respondent - State.

.....

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

Date : December 10, 2025.

P. C. :

1. Heard learned counsel for the petitioner.
2. Learned counsel for the respondent – Corporation opposed the petition.
3. It is submitted that the petitioner was having knowledge of the action that was being taken by the Corporation to cancel the building permission. It is submitted by the learned counsel for the Corporation that in fact, the petitioner had filed Regular Civil Suit before the trial

Court, which is at page No. 44 of the paper book seeking declaration that no steps for cancellation of the building permission should be taken without hearing the petitioner and in breach of the principles of natural justice.

4. In such circumstances, learned Counsel for the Corporation submitted that if at all the petitioner wants to seek redress the same has to be by approaching the competent Civil Court in the suit which is pending and not by way of Writ Petition under Article 226 of the Constitution of India, which the petitioner is now invoking.

5. Learned Senior Advocate Mr. Shah for the petitioner submitted that the impugned order dated 21st July 2023 cancelling the building permission dated 2nd November 2021 was passed without hearing the petitioner and in breach of principles of natural justice.

6. Mr. Alange, learned counsel for the respondent – Corporation fairly admitted that the order dated 21st July 2023 was not served on the petitioner and that even hearing was not given prior to the passing of the impugned order. We had, therefore, asked Mr. Alange to give an opportunity of hearing to the petitioner before proposing to take any action cancelling the building permission. Mr. Alange, in all fairness, on

instructions of the concerned Officials of the Corporation, submitted that the Corporation is willing to provide an opportunity of hearing to the petitioner. We appreciate this stand of the Corporation.

7. Accordingly, the impugned order dated 21st July 2023 is quashed and set aside. The petitioner shall remain present before the Deputy Commissioner of the Municipal Corporation on 23rd December 2025 at 11.00 a.m. The Deputy Director may fix a further schedule of hearing.

8. It is made clear that even the complainants may be informed about the proceedings before the Deputy Commissioner of the Municipal Corporation and it is open for the complainant to appear before the Deputy Commissioner in support of their contentions. In view of the setting aside of the impugned order, all subsequent orders / notices shall stand withdrawn.

9. Mr. Shah, learned Senior Advocate makes a statement on instructions that within a period of one week from today, an application shall be made for withdrawal of the suit.

10. The Writ Petition is disposed of.

[Ajit B. Kadethankar, J.]

[M. S. Karnik]