

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION  
WRIT PETITION NO. 370 OF 2022

Kohinoor Co.operative Housing  
Society Limited ...Petitioner  
Versus  
Thane Municipal Corporation and Ors. ...Respondents

ALONGWITH  
INTERIM APPLICATION NO. 10322 OF 2025  
IN  
WRIT PETITION NO. 370 OF 2022

Devesh Kumar Jamnaprasad Vyas ...Applicant  
Versus  
Kohinoor Co.operative Housing  
Society Limited ...Respondents

Mr. Vishwambhar M. Parkar for Petitioner.  
Ms. Chaitrali Deshmukh for Respondent Nos. 1 and 2.  
Mr. A.R. Gole for Respondent Nos. 3 and 4.  
Mr. Ajay Panicker a/w Ms. Lavanya Panicker i/b Ajay Law Associates for  
Applicant/Respondent Nos.5 and 6.

CORAM: G. S. KULKARNI &  
AARTI SATHE, JJ.

DATE: 8 SEPTEMBER 2025

P.C.

1. This Petition is filed under article 226 of the Constitution of India is filed  
praying for the following substantial reliefs :

- a. this Hon'ble Court under Article 226 and 227 of the Constitution of India inter alia praying to issue a mandamus/certiorari or writ in the nature of mandamus and or any other appropriate writ, order or direction calling for the records and proceedings in the matter from the office of the Respondent No.1 and 2 and after perusing the records and proceedings

available from the Respondent No. 1 and 2 be pleased to order to the Respondent No. 1 and 2 to take steps as per law for the demolition of illegal and unauthorized construction made at Gala No.A-1 to A-4 in stilt portion of Wing-A of Kohinoor Co-operative Society Limited, Krantiveer Vasudeo Balwant Phadke Marg, Opposite Datta Prasad Society, Naupada, Thane (West), Thane and further direction to the Respondent No.7 to extend assistance as per law through local police station for the demolition of the said illegal and unauthorized construction;

b. Pending the hearing and final disposal of the writ petition, the Respondent No.1 and 2 be directed to undertake demolition of Gala No.A-1 to A-4 in stilt portion of Wing-A of Kohinoor Co-operative Society Limited, Krantiveer Vasudeo Balwant Phadke Marg, Opposite Datta Prasad Society, Naupada, Thane (West), Thane and file a compliance report within 30 days from the date of order;

c. Interim and Ad-Interim reliefs in terms of prayer clause (b) above;

2. We find that the private Respondents who are claiming to be the occupants of the shops which are alleged to be illegally constructed by the Petitioner after reconstruction of the project, had approached the Civil Court of Senior Division at Thane, wherein an order dated 21<sup>st</sup> February 2024 was passed on an application filed by the Respondents praying for temporary injunction. The application was allowed in terms of the following order :

1. The application is allowed.
2. The defendant Corporation is hereby restrained from taking any action against suit shops without following due process of law.
3. No order as to costs.

3. The learned Counsel for the Petitioner as also supported by the Learned Counsel for the Thane Municipal Corporation had appraised the Court of the subsequent developments during the pendency of this Petition. Learned Counsel for Thane Municipal Corporation had placed on record the order dated 8<sup>th</sup> September 2025 passed by the Assistant Commissioner/Respondent Officer on a notice issued to the private Respondents under Section 260(1)(2) of the Maharashtra Municipal Corporations Act whereby the private Respondents have been called upon to vacate the premises. In this view of the matter, Learned Counsel for the Petitioner has fairly stated that appropriate orders can be passed in

the pending Civil Suit after the said order dated 8<sup>th</sup> September 2025 passed by the Assistant Commissioner/Respondent Officer is placed on record of the Civil Court.

4. We are accordingly inclined to dispose of this Petition by accepting the contentions as urged on behalf of the Petitioner to approach the Civil Court. All rights and contentions of the parties are kept open.

5. Petition disposed of in the aforesaid terms. No costs.

6. In view of the above, Interim Application No.10322 of 2025 does not survive and is disposed off.

(AARTI SATHE, J.)

(G. S. KULKARNI, J.)