

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 14037 OF 2024

PANKAJ SHRIVASTAVA.

...Petitioner

VS

NIRMAL LIFESTYLE (KALYAN) PVT LTD

...Respondents

AND

WRIT PETITION NO. 2652 OF 2023

PANKAJ SHRIVASTAVA AND ANR.

...Petitioners

VS

NIRMAL LIFESTYLE (KALYAN) PVT LTD. & Ors. ...Respondents

Ms. Rajesh Singh with Mr. Iftekar Sayed, Mr. Rahul Singh, Mr. Saurav Singh and Mr. Ranjan Mishra, for the Petitioners.

Ms. M. P. Thakur, AGP for the State.

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

DATE: 9 SEPTEMBER 2025.

P.C.

1. These petitions under Article 226 of the Constitution of India are filed praying that the Recovery Warrant dated 14 March 2022 read with 12 November 2020 issued against Respondent Nos.1 to 7 under Section 40(1) of the Real Estate (Regulation and Development) Act, 2016 (for short '**RERA**'), in compliance of Final Order dated 23 December 2019 passed on the complaint filed before the Maharashtra Real Estate Regulatory Authority, Mumbai, (**MahRERA**) as provided under Section 176 of the Maharashtra Land Revenue Code, 1966, be executed. We are also informed by the learned Counsel for the

petitioners that the warrants have attained finality as respondent Nos.1 to 7 have not assailed the orders passed by the MahaRERA.

2. This is not the first time that such proceedings merely on account of delay on the part of Tahasildar, have reached this Court. We may refer to the proceedings of Writ Petition No.16709 of 2024 (**Rajkumari Sharma Vs. The State of Maharashtra & Anr.**) and Writ Petition No.16711 of 2024 (**Yash Textiles Machines Pvt. Ltd. Vs. The State of Maharashtra**) where the co-ordinate Bench of this Court has passed detailed orders thereby directing the Collector, District Thane, to place on record a mechanism whereby such warrants do not remain pending and an early action is taken before the warrant itself frustrates. In such context, we may refer to the observations of the Court in order dated 7 February 2025, which read thus:

9. The present case is a classic case, which would certainly require us, as a Constitutional Court to know from the District Collector, Thane, as to what is the procedure and machinery in operation to deal with execution of recovery warrants and whether the department is sensitive to these matters for urgent actions to be taken. This for the reason that any delay in execution of the recovery warrants has enabled the persons against whom recovery is ordered to extinguish and/or siphon off funds and properties, so that the recovery warrants are rendered mere paper warrants. This cannot be countenanced considering that the Authorities are required to act with utmost expediency and in accordance with law, so that the rule of law prevails, in executing such orders which are passed by the Courts and Authorities.

10. We accordingly direct the Collector, Thane to place on record a detailed Affidavit explaining as to why the warrants dated 23 October 2020 were delayed in regard to their execution and the duties and responsibilities of all the concerned officers who are supposed to deal with these warrants from the date the same were received in the Office of the Collector and District Magistrate.

11. We also direct the Collector, Thane to place on record the machinery which is operational and/or procedure to deal with such warrants. Further a date-wise statement as to how the present warrants were dealt and inaction in this regard should be attributed to which of the officers in the Collector's department, working at the relevant time be specified."

3. On a further order dated 26 February 2025 passed on the aforesaid proceedings, the Court in paragraph (2) issued the following directions to the Collector, District Thane, which read thus:

“2. We accordingly direct the Collector to issue appropriate orders/instructions/circular in that regard so that the persons who are awaiting the fruits of the recovery warrants are not required to wait endlessly, as in the present case and remain at the mercy of the Revenue officials. The Collector shall also address the issue of the appropriate accountability being fixed, of each and every official who would be required to discharge his relevant duty under the recovery warrants. Ms. Bhide, learned G.P. has fairly stated that such circular would be issued and would be placed on record of this Court on or before the adjourned date of hearing.”

4. We may also refer to the relevant observations made in the subsequent order dated 19 March 2025 passed in the said proceedings which read thus:

2. We appreciate the steps taken by the Collector, Thane as also the Tahsildar, Ambernath who have taken effective steps in executing the recovery warrants in question and it is only because of their efforts, the present proceedings could come to an end in the manner as stated above and in the earlier orders. However, as a matter of abundant caution, as the demand drafts would be now deposited by the petitioners in the respective bank accounts and the amount would be realized, we order that in so far as the recovery warrants in question are concerned, the discharge of the same shall take effect on 25 March 2025. In the event any non realisation of the instruments or any other issue of the parties have any urgent issue to be brought before the court, liberty to apply.

3. We have also taken on record the circular dated 11 March 2025 issued by the resident Deputy Collector in regard to a mechanism which is set out in the said circular in regard to the expeditious steps to be taken on the recovery warrant. The resident Deputy Collector is also directed to forward the circular to the registry of Maha-RERA. So that early action in regard to the recovery warrant shall be taken. We appreciate the stand taken by the concerned authority. The circular is filed as an annexure to the Affidavit of Mr. Amit Dattatraya Puri, Tahsildar, Ambernath, Dist. Thane, (page -192). We are of the clear opinion that considering an earlier orders and now the circular the Collector as also the Tahsildar should meticulously follow the circular so that no recovery warrants shall be kept pending. In the event, they are kept pending, the concerned officers shall furnish reasons in appropriate proceedings.

4. We clarify that in so far as any other recoveries are concerned, it is free for the Revenue authorities to take appropriate steps, as the law would warrant. We do not express any opinion on these issues.”

5. This is again another case where no action has been taken to execute the recovery warrant. We accordingly direct the concerned Tahasildar to immediately take appropriate action in accordance with law in regard to the recovery warrants in question, so as to attach the property of respondent Nos.1 to 7 and auction the same to recover the warrant amounts.

6. The compliance of the action taken is required to be informed to the Court on the adjourned date of hearing.

7. Needless to observe that considering the course of action to be taken in accordance with law as followed in the aforesaid decisions in **Rajkumari Sharma Vs. The State of Maharashtra & Anr.** (supra), now Tahasildar would be necessarily required to attach the project property of respondent Nos.1 to 7.

8. Stand over to **23 September 2025** for reporting compliance.

(AARTI A. SATHE, J.)

(G. S. KULKARNI, J.)