

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 7404 OF 2024

Yashwant Anna Bhoir

...Petitioner

Versus

State Of Maharashtra Through Its Principal Secretary & Ors. ...Respondents

Mr. Avinash Phatangare a/w Ms. Archana Shelar for Petitioner.

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

Mr. Dinesh Adsule a/w Mr. Chinmay Bhole for Respondent No.4.

Mr. Vijay Killedar a/w Aditya Kathane for Respondent No.5.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

DATE: 21st NOVEMBER 2025

P.C.

1. In the present proceedings, in pursuance of our judgment and order dated 19th September 2025, the proceedings were placed before us on 7th October 2025, when we passed a detailed order observing that as per the directions of the Court a committee is required to be constituted by the Collector. Ms. Thakur, learned AGP, has placed on record compliance affidavit of Dr. Shrikrishna Panchal, District Collector, Thane, *inter alia* stating that the Improvement Committee for Kulgaon-Badlapur Municipal Area, as directed by this Court, has been duly constituted. A copy of the order constituting such committee dated 3rd October 2025, is placed on record and marked as "Exhibit-5" to the affidavit. The affidavit of Dr. Shrikrishna Panchal is taken on record.

2. Mr. Adsule, learned counsel for Respondent No.4/KBMC states that on behalf of the KBMC an affidavit of the Chief Officer, Shri. Maruti Gaikwad, dated

1st October 2025 is filed *inter alia* setting out steps taken in pursuance of the judgment and order dated 23rd September 2025, and the subsequent orders passed in the present proceedings. At the outset, Mr. Adsule submitted that officers have been appointed ward-wise, for identification of illegal and unauthorized structures by issuance of an order dated 13th October 2025. The affidavit filed by Shri. Maruti Gaikwad, further states that respondent No.4 has published/notified the list of illegal and unauthorized structures/encroachers in local newspapers on 18th October 2025, 30th October 2025, 7th November 2025, 13th November 2025 and 18th November 2025, as set out in paragraph No.3 of the said affidavit. It is stated that there are total 438 illegal and unauthorized structures/encroachments within the jurisdiction of the KBMC as identified by the KBMC and an action to demolish these illegal structures is now proposed to be undertaken in accordance with the Maharashtra Regional Town Planning Act, 1966 (MRTP Act) and the powers conferred under the Maharashtra Municipal Councils, Nagar Panchayat and Industrial Township Act, 1965, after lifting of the Code of Conduct imposed by the State Election Commission. We accordingly direct that appropriate action in accordance with law, needs to be taken in regard to such large scale illegal constructions which have been tolerated by the KBMC from taking lawful action as per the law of the land to remove illegal construction.

3. In regard to the rank illegal construction, principles of law are well settled. In no manner such illegal construction can be tolerated. Such construction which is rank illegal/unauthorized cannot be countenanced, considering the settled principle of law as laid down by the Supreme Court in **M. I. Builders Pvt. Ltd. Vs.**

Radhey Shyam¹; Friends Colony Development Committee vs. State of Orissa & Ors.²; Dipak Kumar Mukherjee Vs. Kolakata Municipal Corporation & Ors.³; Supertech Ltd. Vs. Emerald Court Owner Resident Welfare Association & Ors.⁴; Kerala State Coastal Zone Management Authority Vs. Maradu Municipality & Ors.⁵, and the orders of this Court in **High Court on its own motion (In the matter of Jilani Building at Bhiwandi) vs. Bhiwandi Nizampur Municipal Corporation & Ors.**⁶ All these decisions are referred in the orders passed by this Court in **Smt. Subhadra Ramchandra Takle Vs. Stae of Maharashtra & Ors.**⁷

4. The Division Bench of this Court of which one of us (G. S. Kulkarni, J.) was a member, was considering the issue in regard to large scale illegal construction in the City of Thane within the jurisdiction of the City of Thane Municipal Corporation, at the relevant time 17 structures/buildings were alleged to be illegally constructed. The Court considering the principles of law, passed an order in **Smt. Subhadra Ramchandra Takle**(supra) ordering demolition of the said buildings. The challenge before the Supreme Court to the orders passed by this Court also did not succeed and accordingly, all illegal constructions which had thereafter spread to many more buildings were demolished, resulting in the demolition of 17 buildings. The following position in law as observed by this Court **Smt. Subhadra Ramchandra Takle** (supra) is required to be noted which reads thus:

1 1999(6) SCC 464

2 (2004)8 SCC 733

3 (2013)5 SCC 336

4 (2021)10 SCC 1

5 (2022)8 SCC 240

6 2022 SCC OnLine Bom 386

7 Writ Petition No.5898 of 2025 decision dt. 12/06/2025

“4. In considering such gross illegality, this large unauthorised construction, we are reminded of the law of the land as laid down by the Supreme Court in a line of decisions. In **M. I. Builders Pvt. Ltd. vs. Radhey Shyam**⁸, the Supreme Court in dealing with unauthorised construction held, it needs to be demolished, made the following observations with regard to the illegal construction:

73. The High Court has directed dismantling of the whole project and for restoration of the park to its original condition. This Court in numerous decisions has held that no consideration should be shown to the builder or any other person where construction is unauthorised. This dicta is now almost bordering the rule of law. Stress was laid by the appellant and the prospective allottees of the shops to exercise judicial discretion in moulding the relief. Such a discretion cannot be exercised which encourages illegality or perpetuates an illegality. Unauthorised construction, if it is illegal and cannot be compounded, has to be demolished. There is no way out. Judicial discretion cannot be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. Judges are not entitled to exercise discretion wearing the robes of judicial discretion and pass orders based solely on their personal predilections and peculiar dispositions. Judicial discretion wherever it is required to be exercised has to be in accordance with law and set legal principles.....”

(emphasis supplied)

5. In **Friends Colony Development Committee vs. State of Orissa & Ors.**⁹, the Supreme Court has made the following observations :

“20. The pleadings, documents and other material brought on record disclose a very sorry and sordid state of affairs prevailing in the matter of illegal and unauthorized constructions in the city of Cuttack. Builders violate with impunity the sanctioned building plans and indulge deviations much to the prejudice of the planned development of the city and at the peril of the occupants of the premises constructed or of the inhabitants of the city at large. Serious threat is posed to ecology and environment and, at the same time, the infrastructure consisting of water supply, sewerage and traffic movement facilities suffer unbearable burden and are often thrown out of gear. Unwary purchasers in search of roof over their heads and purchasing flats/apartments from builders, find themselves having fallen prey and become victims to the design of unscrupulous builders. The builder conveniently walks away having pocketed the money leaving behind the unfortunate occupants to face the music in the event of unauthorized constructions being detected or

⁸ 1999 (6)SCC 464

⁹ (2004) 8 SCC 733

exposed and threatened with demolition. Though the local authorities have the staff consisting of engineers and inspectors whose duty is to keep a watch on building activities and to promptly stop the illegal constructions or deviations coming up, they often fail in discharging their duty. Either they don't act or do not act promptly or do connive at such activities apparently for illegitimate considerations. If such activities are to stop, some stringent actions are required to be taken by ruthlessly demolishing the illegal constructions and non-compoundable deviations. The unwary purchasers who shall be the sufferers must be adequately compensated by the builder. The arms of the law must stretch to catch hold of such unscrupulous builders. At the same time, in order to secure vigilant performance of duties, responsibility should be fixed on the officials whose duty it was to prevent unauthorized constructions, but who failed in doing so either by negligence or by connivance.”

(emphasis supplied)

6. In *Dipak Kumar Mukherjee vs. Kolkata Municipal Corporation & Ors.*¹⁰, the Supreme Court held following observations:

“29. It must be remembered that while preparing master plans/zonal plans, the Planning Authority takes into consideration the prospectus of future development and accordingly provides for basic amenities like water and electricity lines, drainage, sewerage, etc. Unauthorized construction of buildings not only destroys the concept of planned development which is beneficial to the public but also places unbearable burden on the basic amenities and facilities provided by the public authorities. At times, construction of such buildings becomes hazardous for the public and creates traffic congestion. Therefore, it is imperative for the concerned public authorities not only to demolish such construction but also impose adequate penalty on the wrongdoer.”

(emphasis supplied)

7. In a recent decision of the Supreme Court in *Supertech Ltd. vs. Emerald Court Owner Resident Welfare Association & Ors.*¹¹, the Supreme Court ordering demolition of large illegal construction, made the following observations:

159. The rampant increase in unauthorised constructions across urban areas, particularly in metropolitan cities where soaring values of land place a premium on dubious dealings has been noticed in several decisions of this Court. This state of affairs has often come to pass in no small a

10 (2013) 5 SCC 336

11 (2021) 10 SCC 1

measure because of the collusion between developers and planning authorities.

160. From commencement to completion, the process of construction by developers is regulated within the framework of law. The regulatory framework encompasses all stages of construction, including allocation of land, sanctioning of the plan for construction, regulation of the structural integrity of the structures under construction, obtaining clearances from different departments (fire, garden, sewage, etc.), and the issuance of occupation and completion certificates. While the availability of housing stock, especially in metropolitan cities, is necessary to accommodate the constant influx of people, it has to be balanced with two crucial considerations — the protection of the environment and the well-being and safety of those who occupy these constructions. The regulation of the entire process is intended to ensure that constructions which will have a severe negative environmental impact are not sanctioned. Hence, when these regulations are brazenly violated by developers, more often than not with the connivance of regulatory authorities, it strikes at the very core of urban planning, thereby directly resulting in an increased harm to the environment and a dilution of safety standards. Hence, illegal construction has to be dealt with strictly to ensure compliance with the rule of law.

161. The judgments of this Court spanning the last four decades emphasise the duty of planning bodies, while sanctioning building plans and enforcing building regulations and bye-laws to conform to the norms by which they are governed. A breach by the planning authority of its obligation to ensure compliance with building regulations is actionable at the instance of residents whose rights are infringed by the violation of law. Their quality of life is directly affected by the failure of the planning authority to enforce compliance. Unfortunately, the diverse and unseen group of flat buyers suffers the impact of the unholy nexus between builders and planners. Their quality of life is affected the most. Yet, confronted with the economic might of developers and the might of legal authority wielded by planning bodies, the few who raise their voices have to pursue a long and expensive battle for rights with little certainty of outcomes. As this case demonstrates, they are denied access to information and are victims of misinformation. Hence, the law must step in to protect their legitimate concerns.”

(emphasis supplied)

8. In **Kerala State Coastal Zone Management Authority vs. Maradu Municipality & Ors.**, the Supreme Court again made the following observations:

".....This Court in Vaamika Island (Green Lagoon Resort) vs. Union of India & Ors. [(2013) 8 SCC 760], has observed:-

“26. The petitioner had affected the construction in violation of the provisions of 1991 and 2011 Notifications as well as Map No.32-A, so found by the High Court. The factual details of the same and where actually the portion of some of the properties of the petitioner in Vettala Thuruthu will fall has been elaborately dealt with by the High Court in its judgment in paras 109 to 119. We notice that the High Court has dealt with the issue pointing out that so far as buildings which have been constructed by the petitioner during the currency of the Notification issued in 1991 are concerned, they are clearly in violation of this notification, hence, action has to be taken for the removal of the same. The Director of Panchayat also vide letters dated 7.3.1995, 17.7.1996 directed all the panchayats to strictly follow the provisions of CRZ notification which it was found not followed by granting permission. The High Court has also found on facts that reconstruction work appeared to have been done during the currency of the 2011 Notification and two buildings (193/D and 193/E) were also constructed illegally. The High Court has also noticed another new construction underway. These all are factual findings which call for no interference by this Court. The High Court has clearly noticed that reconstruction work has been done contrary to 1991 as well as 2011 Notifications and the report of the Expert Committee constituted by the Kerala State Committee on Sciences Technology and Environment (KSCSTE) was accepted.

28. Further, the directions given by the High Court in directing demolition of illegal construction effected during the currency of the 1991 and 2011 CRZ Notifications are perfectly in tune with the decisions of this Court in *Piedade Filomena Gonsalves v. State of Goa* [(2004) 3 SCC 445], wherein this Court has held that such notifications have been issued in the interest of protecting environment and ecology in the coastal area and the construction raised in violation of such regulations cannot be lightly condoned.”

In *Piedade Filomena Gonsalves vs. State of Goa & Ors.* [(2004) 3 SCC 445], this Court has observed :

“4. We do not think that any fault can be found with the judgment of the High Court and the appellant can be allowed any relief in exercise of the jurisdiction conferred on this Court under Article 136 of the Constitution.

Admittedly, the construction which the appellant has raised is without permission. Assuming it for a moment that the construction, on demarcation and measurement afresh and on HTL being determined, is found to be beyond 200 meters of HTL, it is writ large that the appellant has indulged into misadventure of raising a construction without securing permission from the competent authorities. That apart, the learned counsel for the respondent, has rightly pointed out that the direction of the High Court in the matter of demarcation and determination of HTL is based on the amendment dated 18.8.1994 introduced in the notification dated 19.2.1991 entitled the Coastal Regulation Zone notification issued in exercise of the power conferred by section 3(1) and Section 3(2)(v) of the Environment Protection Act, 1986, while the appellant's construction was completed before the date of the amendment and, therefore, the appellant cannot take benefit of the order dated 25.9.96 passed in writ petition No. 102 of 1996.

6. The Coastal Regulation Zone notifications have been issued in the interest of protecting the environment and ecology in the coastal area. Construction raised in violation of such regulations cannot be lightly condoned. We do not think that the appellant is entitled to any relief. No fault can be found with the view taken by the High Court in its impugned judgment."

We find that the view taken by the Kerala High Court in the aforesaid decision is appropriate.

In the instant case, permission granted by the Panchayat was illegal and void. No such development activity could have taken place in prohibited zone. In view of the findings of the Enquiry, Committee, let all the structures be removed forthwith within a period of one month from today and compliance be reported to this Court."

(emphasis supplied)

9. In a decision of the Division Bench of this Court in High Court on its own motion (In the matter of Jilani Building at Bhiwandi) vs. Bhiwandi Nizampur Municipal Corporation & Ors.¹² in which one of us (G. S. Kulkarni, J.) was a member, this Court taking into consideration the decisions of the Supreme Court in Friends Colony Development Committee Vs. State of Orissa¹³ and Dipak Kumar Mukherjee V. Kolkata Municipal Corporation & ors.¹⁴ reached to a conclusion that the unauthorised and illegal construction cannot be tolerated and would be

12 2022 SCC OnLine Bom 386

13 (2006)3 SCC 581

14 (2013)3 SCC (Civ) 72

required to be demolished. The Court issued several directions in disposing of the Public Interest Litigation. The observations as made by the Division Bench as also its directions relevant for the present proceedings are required to be noted, which read thus:

“93. We also cannot forget the role of the municipal officers and its law officers in not showing promptness and/or in delaying to move the Courts for vacating any orders passed on illegal constructions and dilapidated buildings. They cannot remain mute spectators in the event the situation requires a stay or injunction, warranting to be urgently vacated. The Municipal Commissioner needs to take appropriate actions on the concerned officials, if it is found that prompt actions are intentionally not being taken or are delayed for extraneous purposes and for unexplainable reasons.

99. In the scheme of Constitutional governance, it is not possible for us to assume that a public official, howsoever high, or mighty or low, can remain without public accountability to “We the People”. Failure of accountability and discharge of public duties and responsibilities which the law would mandate them to discharge, in our opinion, are anathema not only to the expectations of lawful governance, but would also bring about a colossal case of derailment of the Constitutional and legal machinery, resulting into patent societal injustice and a civic regime opposed to the rule of law. The issues, which we have discussed above, certainly cast a serious doubt as to whether the above expectations of the rule of law are at all fulfilled and/or are followed in breach. It is for such reason, when there is a glaring and an apparent failure on the part of the statutory authorities to comply their lawful duties and Constitutional expectations, and/or when there is a dent or a breach in enforcement of the laws, the Courts unhesitantly are required to step in, so as to correct those who are failing in the discharge of their lawful duties, of not only to remind them of such duties and obligations but use the strong arm of law to set the same enforced and restore the confidence and expectations of the citizens, in the rule of law. This would also certainly require the Court to strictly deal with such officials, as the law would mandate the Court to so deal with them. They ought not to be under any impression that they can evade law with impunity. The famous quote of Lord Acton that “power corrupts and absolute power corrupts absolutely” ought to be realized to be untrue and something of the past, in its applicability in public governance. This, more particularly, when the aim is to compete with the other countries of the world where not only the building laws are stringently followed but also the aesthetics in relation to constructions and building designs are given a great impetus, so that the cities do not become eye sores of brick and mortar. This apart, as echoed in every public policy, corruption in municipal governance should be brought to the books by establishing multiple layers of anti-corruption mechanism within and outside the organization and achieve strict application of the provisions of the Prevention of Corruption Act, 1988. This ought to be implemented with immediate urgency by keeping a vigil on those officers who in the absence of any hurdles are deliberately

not taking actions against illegal and unauthorized constructions. It is only then that there can be a ray of hope and sunshine for the future generations.

101. It is with the above parting words, we close the present proceedings by the following orders:

ORDERS

i)

ii)

iii) The planning authorities through its Competent Officers shall keep informed the Urban Development Department of the Government of Maharashtra on the numbers of illegal constructions in the respective municipal and jurisdictional areas and the action being taken in regard to such illegal constructions, which shall be notified on the website of the planning authority.

iv) The names and designations of the officers/Municipal Officers and employees in charge of the respective municipal and jurisdictional areas, reposed with the authority to initiate action in regard to the illegal, unauthorized and ruinous structures, shall be notified by the planning authorities/Municipal Corporations ward-wise on its official websites, so that accountability can be attributed and fixed in deciding complaints which may be filed by the aggrieved persons.

v) Municipal Commissioner and/or the competent authority of a designated planning authority, is directed to take a review of the illegal buildings/structures in every ward and actions taken thereon, periodically between the 25th to 30th day of every month.

vi) Except for an acceptable and lawful reason, if an illegal and unauthorized construction is found to have subsisted and/or its non-removal is aided and/or abetted by the municipal officers or its employees for a substantial time of more than six months, the Municipal Commissioner shall take penal action against such erring municipal officers including lodging of prosecution under the Municipal laws, in addition to the relevant provisions of the Indian Penal Code, apart from initiating disciplinary proceedings.

ix) The persons who put up illegal or unauthorized constructions cannot claim any immunity by undertaking such illegal acts. The Municipal Commissioner apart from taking action for demolition of such illegal structures, shall also institute criminal proceedings against such persons, who are found to have violated municipal laws and constructed unauthorized or illegal structures apart from taking action for demolition of such structures in a manner known to law.

x) The concerned Municipal Commissioners are directed to give effect to the provisions of Section 152A of the MMC Act and Section 267A of the Maharashtra Municipal Corporations Act to levy penalty which shall be equal to twice the property taxes leviable on such building, so long as it remains unlawful and recover such amounts as arrears of property taxes.

xi) The Permanent Standing Committee (Encroachment Prevention Committee) as constituted under the Government Resolution dated 15th December 2004, shall forthwith be made functional by the State Government so as to commence its functioning with effect 15th March

2022. Such committee shall hold periodical sittings twice every month so as to take account of the actions on illegal structures in Mumbai. Such Committee shall also be constituted in respect of other cities in Maharashtra and it shall hold sittings accordingly.”

(emphasis supplied)

10. It is thus clear that any construction which is unauthorised and illegal would be required to be removed/demolished. We may observe that those who purchase tenements in illegal construction are greedy purchasers, who are a different category of citizens as opposed to those citizens who would purchase tenements which are lawfully constructed, they cannot assert rights in regard to illegal construction.

11. The question however is that how such construction can come up and as to whether the Municipal Officers would not be responsible and/or accountable when such rampant illegal construction is undertaken within their jurisdiction and more particularly when the land, on which the construction in the present case has been undertaken, is an agricultural land/green zone, on which no permission for construction can ever be granted by the Corporation.

12. As noted hereinabove, in High Court on its own motion (In the matter of Jilani Building at Bhiwandi) (supra), the Court has categorically ordered on the accountability to be affixed on the Municipal Officers which would include the Municipal Commissioner, who is the Chief Executive Officer of the Municipal Corporation. If such large construction, which is about 17 buildings can illegally come up, we do not know as to whether the officials of the Municipal Corporation are at all discharging their duties in a manner as known to law. Merely filing complaints with the Police and issuing notices of demolition certainly is not sufficient as no action whatsoever is taken when rampant illegal construction is in progress. No efforts are taken to stop such construction in a manner known to law. This would all require an inquiry to be undertaken as per the principles of law as laid down by this Court in the said proceedings. We may state that the Municipal Officers are supposed to discharge their duties as the law mandates. They discharge such duties on the principles of public trust as reposed in them. It appears that every single officer of the Municipal Corporation who is possibly supposed to take action, has failed to take action, and unless there was an implied support of these persons to enable such persons to undertake illegal constructions, it would have never come up.”

5. The orders passed by this Court in Smt. Subhadra Takle (supra) have also been followed in the order dated 04 September 2024 passed in the case of **Nazma Begaum Khan Vs. The State of Maharashtra & Ors.** (Writ Petition No. 2503 of

2018), as also in **Gulam Husain Abdul Kashim Khan & Ors. Vs Thane Municipal Corporation & others** in Writ Petition No. 11478 of 2025.

6. We may also observe that there is no question of KBMC taking a position that it can entertain any application to regularize rank illegal construction. Considering the settled principles of law. This Court in a recent decision in **Feroz Talukdar Khan Vs. The Municipal Commissioner Thane Municipal Corporation & Anr.**¹⁵ decided on 18 June 2025 in such circumstances rejected the plea of regularization considering the decisions of the Supreme Court, the Court had made the following observations:-

“16. It is no rule of law that a person with impunity would breach law by undertaking such defiant illegal construction and thereafter take recourse to regularization. Regularization can never be of an illegal and/or of rank unauthorized construction. It can be considered by the planning authority of some minor deviation in the construction which would not disturb the sanctity of the permitted legal construction made as per the sanctioned plans and can be effected only on genuine and bonafide reasons. If we accept a proposition that a planning authority having not taken an action and/or permitted such unauthorized construction to take place, and thereafter it considers an application to regularize the same, this would amount to recognizing a regime unknown to the provisions of law opposed to the settled constitutional principles, as also to the settled principles and norms on municipal planning. According any legitimacy to such actions would create a situation of absolute lawlessness of unauthorized and illegal constructions, being permitted to come up, with the municipal/planning authorities doing nothing to arrest unauthorized construction and subsequently considering regularizing such constructions. This would also evolve a regime of total lawlessness and recognize illegality of the persons who have resources to undertake such construction without obtaining any permission from the planning authorities, as per the requirements of law. This is a case where no construction permission was applied for.

17. We may refer to the decision of the Supreme Court in **Mahendra Baburao Mahadik v. Subhash Krishna Kanitkar (2005) 4 SCC 99** rendered on the context of the powers of regularization as conferred under the Maharashtra Regional Town Planning Act, 1966 (for short “MRTP Act”). The Supreme Court has held that the municipal authority did not have any jurisdiction to direct regularization of unauthorized constructions and that such power was confined to the provisions of the Act and no action could be taken for regularization of unauthorized constructions.

15 2025 SCC OnLine Bom 2423

“37. The Municipal Council is a ‘local authority’ as well as Planning Authority within the meaning of the provisions of Sections 2(15) and 2(19) of the MRTTP Act.

38. The Municipal Council being a creature of statute was bound to carry out its functions within the four-corners thereof. Being a statutory authority, it was required to follow the rules scrupulously. Concededly, the Municipal Council is not possessed of any statutory power to regularize unauthorized constructions. Its power is confined to compounding the offences in certain cases. Moreover, even development charges could not be recovered from the appellant in respect of unauthorized constructions in terms of Section 124E(2) of the MRTTP Act.”

(emphasis supplied)

18. In *Kaalkaa Real Estates Pvt. Ltd. v. Municipal Corporation of Greater Mumbai* (2022 SCC OnLine Bom 2536), in the context of regularization of unauthorized constructions, this Court reiterated the principles that it cannot be said as a matter of general rule an unauthorized construction could be regularized. It was also observed that the legislature has not intended that the provisions in the planning laws including building by-laws and regulations relating to health, safety, fire safety, safety of the inhabitants of the buildings and the neighborhood have to be ignored or brushed aside in undertaking legitimate constructions. It was observed that the Supreme Court has cautioned against liberal use of the power of regularization and retention of unauthorized works and buildings and that the Supreme Court has warned that the authorities must take into consideration public safety, health, protection of environment and ill-effects of unregulated and uncontrolled construction in cities and towns. It was also held that retention of unauthorized works and constructions cannot result in wholesale condonation and relaxation or exemption from the building regulations and by-laws or else there will be a chaos and break down of the rule of law. It was further held that by imposition of fine and charging compounding fees, large scale unauthorized constructions if are regularized, would encourage builders and developers, as also others having interest in the development activities, to openly violate laws, as such persons would always proceed on the basis that the building regulations can be breached with impunity, and all that they would be visited with, is high compounding fees. It was observed that this is not the intention of the legislature that in making the regularization provisions under the MRTTP Act, including the penal provisions (referring to Sections 52 and 53 thereof) which were enacted with a defined object and purpose to discourage unauthorized and illegal development and also punish the wrong doers. The Court further observed that the exercise of the discretionary powers of regularization must not result in a licence to break the planning laws. It was held that an individual's interest in a property and his right to enjoy the same, is subject to larger public good and purpose and that such rights are required to be balanced with the requirements of the society and such rights can never be absolute. For such reasons, the Planning Authority cannot, as a matter of rule, regularize unauthorized constructions by allowing the wrong doer to achieve condonation of the illegality.

19. In a recent decision of the Supreme Court in *Rajendra Kumar Barjatya v. U.P. Avas Evam Vikas Parishad* (2024 SCC OnLine SC 3767), the Supreme Court has reiterated the following principles in the context of illegal and unauthorized constructions.

“20. In the ultimate analysis, we are of the opinion that construction(s) put up in violation of or deviation from the building plan approved by the local authority and the constructions which are audaciously put up without any building planning approval, cannot be encouraged. Each and every construction must be made scrupulously following and strictly adhering to the Rules. In the event of any violation being brought to the notice of the Courts, it has to be curtailed with iron hands and any lenience afforded to them would amount to showing misplaced sympathy. Delay in directing rectification of illegalities, administrative failure, regulatory inefficiency, cost of construction and investment, negligence and laxity on the part of the authorities concerned in performing their obligation(s) under the Act, cannot be used as a shield to defend action taken against the illegal/unauthorized constructions. That apart, the State Governments often seek to enrich themselves through the process of regularisation by condoning/ratifying the violations and illegalities. The State is unmindful that this gain is insignificant compared to the long-term damage it causes to the orderly urban development and irreversible adverse impact on the environment. Hence, regularization schemes must be brought out only in exceptional circumstances and as a onetime measure for residential houses after a detailed survey and considering the nature of land, fertility, usage, impact on the environment, availability and distribution of resources, proximity to water bodies/rivers and larger public interest. Unauthorised constructions, apart from posing a threat to the life of the occupants and the citizens living nearby, also have an effect on resources like electricity, ground water and access to roads, which are primarily designed to be made available in orderly development and authorized activities. Master plan or the zonal development cannot be just individual centric but also must be devised keeping in mind the larger interest of the public and the environment. Unless the administration is streamlined and the persons entrusted with the implementation of the act are held accountable for their failure in performing statutory obligations, violations of this nature would go unchecked and become more rampant. If the officials are let scot-free, they will be emboldened and would continue to turn a nelson's eye to all the illegalities resulting in derailment of all planned projects and pollution, disorderly traffic, security risks, etc.”

20. In a recent decision of the Supreme Court in *Kaniz Ahmed v. Sabuddin* (2025 SCC OnLine SC 995)

“6. The learned counsel appearing for the petitioner would submit that her client be given one chance to pray for regularisation of the unauthorised construction. We do not find any merit in such submission. A person who has no regards for the law cannot be permitted to pray for regularisation after putting up unauthorised construction of two floors. This has something to do with the rule of law. Unauthorised construction has to be demolished. There is no way out. Judicial discretion would be guided by expediency. Courts are not free from statutory fetters. Justice is to be rendered in accordance with law. We are at pains to observe that the aforesaid

aspect has not been kept in mind by many State Governments while enacting Regularisation of Unauthorized Development Act based on payment of impact fees.

7. Thus, the Courts must adopt a strict approach while dealing with cases of illegal construction and should not readily engage themselves in judicial regularisation of buildings erected without requisite permissions of the competent authority. The need for maintaining such a firm stance emanates not only from inviolable duty cast upon the Courts to uphold the rule of law, rather such judicial restraint gains more force in order to facilitate the well-being of all concerned. The law ought not to come to rescue of those who flout its rigours as allowing the same might result in flourishing the culture of impunity. Put otherwise, if the law were to protect the ones who endeavour to disregard it, the same would lead to undermine the deterrent effect of laws, which is the cornerstone of a just and orderly society. [See : *Ashok Malhotra v. Municipal Corporation of Delhi*, W.P. (c) No. 10233 of 2024 (Delhi High Court)]”

21. Adverting to the aforesaid settled principles of law, the proposition on regularization as urged on behalf of Respondent No. 3, if accepted, would also bring about the situation of creating two categories of citizens as observed by the Division Bench of this Court in the proceedings of *High Court on its own motion (In the matter of Jilani Building at Bhiwandi)* (Supra) i.e. firstly, a category of citizens who would intend to adhere to the rule of law; who would approach the planning authority by applying for a planning/development permission by putting up plans through their architects and to undertake legal and authorized constructions; and on the other hand a category of citizens who have no regard for law and merely because they have large resources (possibly not legitimate) at their disposal to undertake unauthorized construction. What would be these resources is only to be imagined, being utilized in connivance with the official machinery in putting up illegal constructions.

22. We may observe that it is likely that many such illegal constructions have remained unattended and/or have flourished or impliedly protected by the municipal machinery. They remain unattended for years together with such blessings of the official machinery. We are not aware as to when an inspection and audit of this illegal/unauthorized construction ward wise would be undertaken. It needs to be immediately commenced by the Municipal Commissioner and prevent further lawlessness.

23. It is in these circumstances, we cannot accept the plea as urged on behalf of Respondent No. 3 to permit Respondent No. 3 to attempt or pursue any regularization application as the same is not maintainable in law. For the reasons which we have discussed hereinbefore, such an application can have no legal recognition, in fact it is a non-est and void application, which the municipal authorities, in no manner whatsoever even if they so desire, can consider.

24. We hope and trust that the municipal officers would consider such legal position whenever any regularization application is received in relation to rank unauthorized construction. The Municipal Commissioner in that regard needs to have a uniform policy so that inherently illegal and unauthorized constructions are not regularized and such applications are

rejected. Such appropriate directions be forthwith issued by the Municipal Commissioner to the appropriate department receiving such regularization application.

25. Also as observed by this Court in *Smt. Subhadra Ramchandra Takle* (Supra), any occupant of the said unauthorized and illegal premises can have no legal right whatsoever. There can neither be any equity nor sympathy, which can be shown to such occupants who have purchased premises in illegal constructions. The Court has referred them to be greedy purchasers, who have ample means to purchase premises in illegal constructions.

26. For the aforesaid reasons, we have no manner of doubt that the Municipal Corporation needs to proceed further to demolish the unauthorized construction in question as per the lawful measures as initiated. There can be no protection to such illegal construction.”

7. We may also observe that the tendency of the persons resorting illegal constructions is to approach the Civil Courts and obtain the orders of temporary injunctions, and such injunction orders, continue to operate for a long period, thereby frustrating the efforts of the statutory authorities to enforce compliance with the law. In many cases, applications filed by the authorities to have such orders vacated remain pending for a variety of reasons. In this context, the Division Bench of this Court in **High Court on its own motion (In the matter of Jilani Building at Bhiwandi) vs. Bhiwandi Nizampur Municipal Corporation & Ors. (supra)** has observed thus:

“ROLE OF THE CIVIL COURT:

81. We also caution the Civil Courts which might be approached with civil suits/proceedings when the MunicipalCorporations/Planning Authority/Competent Authority commence action against illegal and unauthorized constructions or actions being taken against dilapidated buildings. The Civil Court needs to be extremely cautious and ought to have a well considered approach in dealing with such suits. When applications for temporary injunction are moved in civil suits which are filed assailing any action being taken by the municipal officers on unauthorized/illegal constructions or actions being taken against

dilapidated buildings, the injunction applications ought to be decided without any delay and not later than one week from the date of its presentation, so that in legitimate cases, the actions against illegal structures being taken by the Municipal Officers, are not delayed by any undeserving judicial intervention. In this context, we may usefully refer to a decision of the Division Bench of this Court in *Mohd. Talib Habib Shaikh v. Mohammad Siddaqui Haji*. Justice G.S. Patel speaking for the Bench, made the following observations on the role of the Civil Courts in considering matters arising from unauthorized and illegal construction, also referring to the previous orders passed by the Division Bench:—

“6. We are surprised that when the demolition was scheduled, the persons concerned promptly approached a Civil Court. The Civil Court in Regular Civil Suit No. 716 of 2018 passed an ex parte ad-interim order dated 31st December 2018. That order was served on the Municipal Corporation. That is taken to be a handicap and an obstacle.

7. We are shocked and surprised firstly at the approach of the Municipal Corporation, which by now through its officials is experienced enough to pre-empt the passing of such ex parte orders. The officials should be aware that those constructing buildings unauthorisedly and illegally are bound to go to every Court right up to the highest Court in the country to stall the inevitable. Therefore, a caveat should have been filed and entered. That was not done. That possibly indicates that the Municipal Corporation is giving its blessing to such construction activity within its limits. If the order of this Court can be neutralised or set at naught and the directions therein set at naught in this manner, then we are equally disturbed by the approach of the Civil Court.

9. We would only invite the attention of the Civil Court to several judgments of this Court as also of the Supreme Court particularly in the case of *Shiv Kumar Chadha v. Municipal Corporation of Delhi* [(1993) 3 SCC 161] wherein the Hon'ble Supreme Court has highlighted the element of public interest which is paramount in matters of this nature and particularly while considering an application for interlocutory orders, including prohibitory directions and injunctions restraining public bodies from demolishing unauthorised constructions or removing obstacles in implementation of a public project.

10. If public interest is not to be considered a vital element as highlighted in this judgment, then possibly everything would be subsidiary. The civil court must be mindful that an illegal construction poses a threat to the public at large and that there is good reason for the statutory requirement that every construction has to be authorised so that it conforms inter alia to safety and other norms.”

8. The Civil Court which may entertain such suits, is required to be apprised by the KBMC of this position in law whenever an injunction application is moved in such civil suit so that appropriate action as per law of the land in regard to the illegal construction can be undertaken.

9. Now coming to the affidavit of the Chief Officer filed in the present proceedings, it also records that the improvement committee for KBMC has convened its first meeting on 14th November 2025 and discussed the relevant issues. The minutes of the said meeting are placed on record.

10. In the aforesaid circumstances, we direct that an affidavit be filed by the Additional Collector, who is a member of the committee in regard to the immediate and urgent steps which would now be taken in pursuance of the orders passed by this Court and the timelines/bar chart for such proposed actions. A complete blueprint as to how the committee intends to proceed on the different issues of improvements and the stepwise plans proposed to be adopted be informed to the Court.

11. There is an urgent need to commission the Sewage Treatment Plant (STP) so that water pollution which is caused by the sewage being drained into the Ullhas river, is prevented. The affidavit to be filed shall also set out the compliances in regard to the steps which are being taken to bring about real/actual improvement to the existing conditions. Let the same be incorporated in a tabular form recording the steps that have been taken to stop the drainage being let into the river. If such steps are not taken to stop the sewage from being drained into the river, they

are required to be taken immediately, and a compliance in that regard be placed on record on or before the returnable date.

12. With the aforesaid directions, we make the proceedings returnable after two weeks.

13. Stand over to **5th December 2025** at 2.45 p.m.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)