



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 7404 OF 2024

Yashwant Anna Bhoir

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Avinash Fatangare a/w Sandesh Kate & Ms. Archana Shelar for Petitioner.

Ms. M. P. Thakur, AGP for Respondent Nos.1 to 3 – State.

Mr. Dinesh Adsule for Respondent No.4.

Mr. Sumedh Modak i/b Mr. Vijay Killedar for Respondent No.5.

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

DATE: 23 JUNE 2025

P.C.

1. On 30 June 2025, we had passed a detailed order appointing an expert to visit the site at question so as to verify the grievances as made by the petitioner on the sewerage water being discharged on its adjoining land. Accordingly, we have received a report, a copy of which is also furnished to all the parties. It appears from the report that the contentions as urged on behalf of the petitioner are stated to be correct, when a report sets out the following summary:

“SUMMARY:-

The drainage/sewage line constructed is reported to be incomplete and partly constructed is of substandard quality. Furthermore, the septic tank built by the developer/respondent, according to the plan approved by the Kulgaon Badlapur Municipal Council, is poorly constructed and insufficient in capacity given the residential density. Consequently, it is overflowing and discharging onto the petitioner's plot/land. The soak pit indicated in the approved plans is also not effectively containing the drainage/sewage, resulting in seepage onto the petitioner's property.

Additionally, a letter from the Chief Officer of Kulgaon Badlapur Municipal Council addressed to the Secretary/Chairman of Trishul Golden Ville CHS

(Letter No. 566/2023-24 dated 08/12/2023), states: "As per the Tahsildar Office, Ambarnath, it has been observed that sewage/drainage from your society is flowing into agricultural land, creating a risk of disease." This supports the petitioner's assertion that the sewage/drainage is impacting their land. The said Chief Officer of Kulgaon Badlapur Municipal Council's Letter dated 08/12/2023 is attached herewith as Exhibit-8.

Moreover, it is necessary to verify with the Kulgaon Badlapur Municipal Council.

1. whether the total construction area exceeds the threshold that requires Environment Clearance. If such clearance had been obtained, the current issue might have been prevented.

2. Is an impact assessment conducted for converting agricultural land near the high flood zone of Ulhas River into residential areas?. The sanctioned Development Plan of the Kulgaon Badlapur Municipal Council is attached to this report as Exhibit-9."

2. Apart from such large construction being undertaken without a proper sewerage system and only a small septic tank being provided which is overflowing, the water flowing on the petitioner's land, what appears to be also quite disturbing is that the Planning Authority has not considered the necessity of an environmental clearance for undertaking such huge construction. The report also observes that an impact assessment has not been conducted before converting agricultural land beyond the High Flood Zone of the Ulhas River, into a residential zone. In this regard, the sanctioned development plan of the Kulgaon, Badlapur Municipal Corporation is also attached to the report. If what has been observed in the report is considered to be correct, in our *prima facie* opinion, the entire construction would be objectionable and/or illegal. A scrutiny of such issues is imperative. Let respondent No.4 consider this position, which in our *prima facie* opinion is quite serious and place its reply affidavit on record on or before the adjourned date of hearing. We also direct the District Town Planning Officer, Government of

Maharashtra on any equivalent officer from the Directorate of Town Planning, Government of Maharashtra to file an affidavit on the factual and illegal issues as highlighted by us.

3. We also direct that subject to any further professional charges being issued by the expert appointed by us, the amounts as deposited by respondent No.5, be paid by the Registry to the expert.

4. Let the affidavits of the respondents be placed on record on or before the adjourned date of hearing.

5. In the meantime, we direct the respondents to immediately take remedial measures to stop the flow of the sewerage / septic tank water onto the petitioners land and the measures which are so taken, be also stated and set out in the affidavit of respondent No.4, which be filed in the present proceedings as directed.

6. List the proceedings on **08 July 2025 (HOB)**.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)