

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

PUBLIC INTEREST LITIGATION NO.8 OF 2025

Amit Rishikesh Mishra

.. Petitioner

Vs.

The Municipal Commissioner,

Navi Mumbai Municipal Corporation and Ors.

.. Respondents

Mr. Tushar N. Sonawane, Advocate for the Petitioner.

Mr. Tejesh Dande, Advocate for Respondent Nos.1 to 5.

Mrs. Neha S. Bhide, Government Pleader, with Mr. O.A. Chandurkar, Additional Government Pleader and Mrs. G.R. Raghuvanshi, Assistant Government Pleader for Respondent No.8.

**CORAM : SHREE CHANDRASHEKHAR, CJ. &
GAUTAM A. ANKHAD, J.**

DATE : 4TH NOVEMBER 2025.

P.C. :

Seeking a direction to the respondent nos.1 to 6 to take immediate action for demolition of the alleged illegal building constructed by the respondent no.7, the present writ petition masked as a public interest litigation seeks the following reliefs:

- a. Rule be issued, record and proceeding be called for.*
- b. By way of an appropriate writ or order of this Hon'ble Court, the respondent nos.1 to 6 be directed to take immediate action for the demolition of the illegal building constructed by respondent no.7, located at Mauje-Airoli, Survey Nos.3, 5, 7, Sainathwadi, Sector-1, Airoli, Navi Mumbai, which has been unlawfully erected as a residential building.*
- c. And/or, by way of an appropriate writ or order of this Hon'ble Court, the respondent no.6(CIDCO) be directed to pull down or demolish the said illegal building, either by themselves or jointly with NMMC, with appropriate police protection as directed by this Hon'ble Court, and complete the demolition process, filing a report of such action to this Hon'ble Court.*
- d. In the meantime, be pleased to direct the Civil authorities i.e. respondent nos.1 to 6 to seal the said illegal building under the direction of this Hon'ble Court by way of interim/ad-interim relief.*
- e. That be pleased to order appropriate legal/disciplinary action against the erring officers of the respondent nos.1 to 6 who*

failed to take action of demolition of the said illegal building thereby failed to comply with their legal obligation under the law.

f. Ad-interim relief in term of prayer clause (d) may kindly be granted.

g. Any other appropriate relief in terms of the prayer clauses (a) to (f) may kindly be granted as this Hon'ble Court deem fit."

2. The petitioner is a resident in the same locality where the alleged illegal construction has been raised by the respondent no.7. The learned counsel for the petitioner states that the petitioner waited for some time and when he obtained proof of illegal construction through Google Earth images, then filed several complaints including a letter to the Chief Minister's office on 15th May 2024 pointing out the illegal construction. In response, the Chief Minister's office, Konkan Bhavan addressed a communication to the respondent no.1 directing that proper action should be taken by conducting an enquiry and in accordance with the applicable laws. The petitioner also filed a complaint on 22nd July 2024 to the respondent no.6. Several RTI applications have also been filed by the petitioner before the respondent nos.1 to 6 on this issue. It is pursuant to the petitioner's actions, that a notice under section 54 of the Maharashtra Regional & Town Planning Act was issued by the respondent no.4 calling upon the respondent no.7 to immediately stop the unauthorized development on the said land. Despite the above, it is the petitioner's grievance that the authorities have failed to act and permitted the respondent no.7 to continue the construction of the illegal structure. The building is now completed and it will mislead the purchasers who intend to purchase units in the said building. He relied upon the decision in "*Supertech Limited v. Emerald Court Owner Resident Welfare Association & Ors.*", (2021) 10 SCC 1, and submitted that the Court may take cognizance of the matter and issue directions for demolition of the illegal building raised by the respondent no.7.

3. There can be no quarrel with the proposition of law laid down in *Supertech (supra)*, but we observe from the materials on record and the photographs produced by the petitioner, it was only after constructions upto 3rd floor were raised the petitioner made a complaint on 13th May 2024 to the Municipal Commissioner, Navi Mumbai Municipal Corporation. The petitioner, who resides in the same locality, does not indicate in this petition when the construction at Mauje – Airoli within Survey Nos.3, 5 and 7, Sainathwadi, Sector – 1, Airoli, Navi Mumbai started. In “*R & M Trust v. Koramangala Residents Vigilance Group*”, (2005) 3 SCC 91, the Hon’ble Supreme Court refused to grant relief in a PIL where the building construction was substantially complete. The relevant portion reads as follows:

“34. *There is no doubt that delay is a very important factor while exercising extraordinary jurisdiction under Article 226 of the Constitution. We cannot disturb the third-party interest created on account of delay. Even otherwise also, why should the Court come to the rescue of a person who is not vitilant of his rights?*

35. *We are of the opinion that delay in this case is equally fatal, the construction already started by the appellant in 1987 and building had come up to three floors. Thereafter it was stopped in 1988 and in March 1991, it resumed after permission was granted. The writ petition was filed in November 1991 meanwhile construction was almost complete. Therefore, delay was fatal in the present case and learned Single Judge rightly held it to be so.”*

4. We also find that the petition does not contain any averment disclosing the source of information as to the sanction for construction put up by the respondent no.7. The PIL does not contain any averment or a statement that the petitioner has sought for building plans and no such plans are available. The petition is also silent on whether the respondent nos.1 to 6 have refused to share information regarding this building with the respondent no.7. In absence of these disclosures, we cannot verify

the facts of this case. This petition therefore lacks *bona fides* and is not maintainable as a public interest litigation. The conduct of the petitioner in keeping quiet over years together and making complaint on 13th May 2024 when construction upto third floor was complete does not inspire confidence of the Court.

5. For the aforesaid reasons, Public Interest Litigation No.8 of 2025 is dismissed. However, we issue a direction to the Municipal Commissioner, Navi Mumbai to take further steps pursuant to the inspection report dated 10th May 2024.

[GAUTAM A. ANKHAD, J.]

[CHIEF JUSTICE]