

Pdp

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

**PUBLIC INTEREST LITIGATION NO. 112 OF 2022
WITH
INTERIM APPLICATION NO. 1939 OF 2024**

**Shree Geneshay Seva Sanstha
& Ors.**

..Petitioners

Versus

**Municipal Commissioner,
Vasai VirarMunicipal Office & Ors.**

..Respondents

Mr. Bihari Dubey with Mr. Aneel Upadhyay for petitioners.
Ms. Swati Sagvekar for respondent nos.1 to 5.
Mrs. Neha S. Bhide, Govt. Pleader a/w Mrs. R. A. Salunkhe,
AGP for respondent nos.6, 7 and 10.
Mr. A. R. Gole for respondent no.9.

**CORAM: ALOK ARADHE, CJ. &
M. S. KARNIK, J.**

DATE: 23rd APRIL, 2025

ORAL ORDER [Per Chief Justice]:

- 1.** Rule. Rule is made returnable forthwith. With the consent of the parties, heard finally.
- 2.** In this petition, which has been filed as Public Interest Litigation, the petitioner no.1 which claims itself to be a Society registered under the Societies Registration Act, 1860, the petitioner nos.2 and 3 who are the Secretary and Chairman respectively of petitioner no.1-Society, seek a direction to respondents to demolish the unauthorized construction situate at Survey No. 251, Hissa No. 3, Village

Achole, Taluka – Vasai, Nalasopara (E), District – Palghar (hereinafter referred to as “the subject land”).

3. Learned counsel for the petitioners submitted that the subject land belongs to the State Government, however, respondent nos.8 and 9 have raised an illegal construction on the subject land. It is further submitted that the petitioners, from time to time, had submitted complaints to the Collector, Palghar. However, the complaints submitted by the petitioners have failed to evoke any response. The learned counsel for the petitioners also invite the attention of this Court to an order dated 5th July, 2023 passed by a coordinate Bench of this Court in this PIL by which Municipal Corporation and Tahsildar, Vasai were directed to file an action taken report in pursuance of the order dated 24th November, 2022 on the next date of hearing.

4. On the other hand, learned AGP submitted that the action for removal of the unauthorized construction shall be taken. At this stage, learned counsel for the respondent no.9 submits that even the petitioners have raised an illegal construction.

5. Be that as it may, an unauthorized construction cannot be permitted to stand and it has to be removed in accordance with law. Therefore, we deem it appropriate to issue following directions:

(i) The Collector, Palghar shall afford an opportunity of hearing to the petitioners as well as respondent nos.8 and 9 with regard to alleged unauthorized construction on Survey No. 251, Hissa No. 3, Village Achole, Taluka

– Vasai, Nalasopara (E), District – Palghar and shall decide whether the construction raised by respondent nos.8 and 9 is unauthorized or not.

(ii) In case the Collector, Palghar comes to the conclusion that the said construction is unauthorized, the Collector shall take an action for removal of the same.

(iii) Needless to state that the Collector shall also be at liberty to examine whether the petitioners have carried out any unauthorized construction. In case the petitioners have carried out any unauthorized construction, the same shall be removed in accordance with law.

(iii) The Collector while deciding the issue of unauthorized construction shall bear in mind the order dated 24th November, 2022.

(iv) The aforesaid exercise shall be carried out within a period of four months from today.

6. Accordingly, PIL is disposed of.

7. Interim Application(s), if any, stand disposed of.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)