

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO.1515 OF 2025**

Mishal Ahmad Khan

... Petitioner.

V/s.

The Municipal Commissioner & Anr.

... Respondents

WITH**WRIT PETITION NO.1517 OF 2025**

Abdul Riyaz Abdul Gani Chaoudhary

... Petitioner.

V/s.

The Municipal Commissioner & Anr.

... Respondents.

WITH**WRIT PETITION NO.1518 OF 2025**

Naim Choudhary Brother of

Abdul Ajij Choudhary

... Petitioner.

V/s.

The Municipal Commissioner & Anr.

... Respondents.

WITH**WRIT PETITION NO.1519 OF 2025**

Sahebjad Mohamed Sahed Choudri

... Petitioner.

V/s.

The Municipal Commissioner & Anr.

... Respondents.

WITH**WRIT PETITION NO.1522 OF 2025**

Badre Alam Siddiqui

... Petitioner.

V/s.

The Municipal Commissioner & Anr.

... Respondents.

WITH**WRIT PETITION NO.1524 OF 2025**

Naim Choudhary Brother of Abdul Ajij Choudhary

... Petitioner.

V/s.
The Municipal Commissioner & Anr. ... Respondents.

WITH
WRIT PETITION NO.1527 OF 2025

Kaimuniss Safatullah Choudhary ... Petitioner.
V/s.
The Municipal Commissioner PCMC & Anr. ... Respondents.

WITH
WRIT PETITION NO.1530 OF 2025

Anwarali Shah, Son of Mohammad Ismaiel Shah ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

WITH
WRIT PETITION NO.1532 OF 2025

Naim Choudhary Brother of
Abdul Ajij Choudhary ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

WITH
WRIT PETITION NO.1553 OF 2025

Naim Choudhary Brother of
Abdul Ajij Choudhary ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

WITH
WRIT PETITION NO.1555 OF 2025

Akhtar Hussain Karam Hussain Mansuri ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

WITH
WRIT PETITION NO.1556 OF 2025

Naseeb Ali ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1558 OF 2025**

Rahamatullah Mohammad Abbas Khan ... Petitioner.
V/s.
The Municipal Commissioner PCMC & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1559 OF 2025**

Israr Iqbal Khan ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1560 OF 2025**

Naim Choudhary Brother of
Abdul Ajij Choudhary ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1561 OF 2025**

Farhan Mohammad Hanif Chaudhary
Son of late Mohammad Hanif Chaudhary ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1562 OF 2025**

Waris Ali ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1563 OF 2025**

Abdul Gafoor Abdul Jabbar Chaudhary ... Petitioner.
V/s.
The Municipal Commissioner PCMC & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1564 OF 2025**

Shafiullah Ibrat Chaudhary ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1565 OF 2025**

Naim Choudhary Brother of
Abdul Ajij Choudhary ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1566 OF 2025**

Sarvar Alam Mohd. Mustaqim Khan ... Petitioner.
V/s.
The Municipal Commissioner PCMC & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1568 OF 2025**

Naim Choudhary Brother of
Abdul Ajij Choudhary ... Petitioner.
V/s.
The Municipal Commissioner PCMC & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1607 OF 2025**

Ghurhu Prasad Chaudhary ... Petitioner.
V/s.
The Municipal Commissioner PCMC & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1608 OF 2025**

Akram Fauzdar Choudhari ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1609 OF 2025**

Komal Shivratan Badur ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1610 OF 2025**

Choudhari Yarmohammad M ... Petitioner.
V/s.
The Municipal Commissioner & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1611 OF 2025**

Zahid Shaikh H/o Zeinad Nurmohamed Choudhary ... Petitioner.
V/s.
The Municipal Commissioner PCMC & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1612 OF 2025**

Naim Choudhary Brother of
Abdul Ajij Choudhary ... Petitioner.
V/s.
The Municipal Commissioner PCMC & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1613 OF 2025**

Abdulshakoor Abduljabbar Chaudhary ... Petitioner.
V/s.
The Municipal Commissioner PCMC & Anr. ... Respondents.

**WITH
WRIT PETITION NO.1618 OF 2025**

Naim Choudhary Brother of
Abdul Ajij Choudhary

... Petitioner.

V/s.

The Municipal Commissioner PCMC & Anr.

... Respondents.

Mr. Rakesh Agrawal i/by Adv. Parmeshwar Bhise for the Petitioner in all
Petitions.

Mr. Kedar Dighe, for Respondent Nos.1 & 2-PCMC in all Petitions.

**CORAM : A. S. GADKARI AND
KAMAL KHATA, JJ.**

DATE : 4th February 2025.

PC.:-

1) It is an admitted fact on record that the Petitioner structures are thoroughly illegal and erected in contravention of all the laws of the land. There is no approval or sanction accorded by any competent authority/planning authority for erecting suit structures.

2) Learned Advocate for the Respondents pointed out the fact that on earlier occasion a demolition drive was scheduled on 30th January, 2025 with the aid of necessary police protection. However, all of a sudden a humongous mob gathered at the area of the suit structures and indulge into 'Rasta Rako Abhiyan', thereby halting vehicular traffic on the highway for about four hours.

It appears to us that the Petitioners have more faith in adopting extra constitutional measures than the constitutional remedies.

3) Be that as it may as the suit structures mentioned in the Petitions are thoroughly unauthorized and illegal structures. The Hon'ble

Supreme Court in the case of *Rajendra Kumar Barjatya and Anr. V/s. U.P. Avas Evam Vikas Parishad and Others* reported in 2024 SCC OnLine SC 3767 in paragraph 20 reads as under:

“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 regularization 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. Unauthorized 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.”

- 4) As the suit structures in the present Petitions are thoroughly illegal and unauthorized structures, we are not inclined to exercise our jurisdiction under Article 226 of the Constitution of India to protect them.
- 5) Petitions are accordingly dismissed.

(KAMAL KHATA, J.)

(A.S. GADKARI, J.)