

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CIVIL APPELLATE JURISDICTION****WRIT PETITION NO. 1708 OF 2025**

Moinuddin Nizamuddin Shaikh ...Petitioner
Versus
The State Of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 1709 OF 2025

Abdul Moeed Choudhary ...Petitioner
Versus
The State Of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 1710 OF 2025

Mohd. Mujtaba Inayatulla Choudhary ...Petitioner
Versus
The State Of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 1976 OF 2025

Iqbal Khwaja Sangam ...Petitioner
Versus
The State Of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 1977 OF 2025

Firoz Ashikali Chaudhary ...Petitioner
Versus
The State Of Maharashtra & Ors. ...Respondents

WITH
WRIT PETITION NO. 1978 OF 2025

Moharram Ali Kayam Khan

...Petitioner

Versus

The State Of Maharashtra & Ors.

...Respondents

WITH

WRIT PETITION NO. 1979 OF 2025

Abdul Qadir Abdul Majeed Chaudhary

...Petitioner

Versus

The State Of Maharashtra & Ors.

...Respondents

WITH

WRIT PETITION NO. 1981 OF 2025

Mohammed Ayub Aziz Ur Rahman Khan

...Petitioner

Versus

The State Of Maharashtra & Ors.

...Respondents

WITH

WRIT PETITION NO. 1982 OF 2025

Mohammad Ayyub Khan

...Petitioner

Versus

The State Of Maharashtra & Ors.

...Respondents

WITH

WRIT PETITION NO. 1983 OF 2025

Mainuddin Nizamuddin Shaikh

...Petitioner

Versus

The State Of Maharashtra & Ors.

...Respondents

WITH

WRIT PETITION NO. 1984 OF 2025

Iqbal Khwaja Sangam

...Petitioner

Versus

The State Of Maharashtra & Ors.

...Respondents

WITH

WRIT PETITION NO. 1985 OF 2025

Matiullah Valiullah Chaudhary ...Petitioner
Versus
The State Of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO. 1986 OF 2025**

Isarafoon Valiullah Chaudhary ...Petitioner
Versus
The State Of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO. 1987 OF 2025**

Mohd. Anwar Abdul Shakoor Khan ...Petitioner
Versus
The State Of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO. 1988 OF 2025**

Safatulhha Chaudhary ...Petitioner
Versus
The State Of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO. 1989 OF 2025**

Santosh Ramkaran Mishra ...Petitioner
Versus
The State Of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO. 1990 OF 2025**

Somnath Narayan Kamble ...Petitioner
Versus
The State Of Maharashtra & Ors. ...Respondents

**WITH
WRIT PETITION NO. 1991 OF 2025**

Iqbal Khwaja Sangam
Versus
The State Of Maharashtra Ors

...Petitioner
...Respondents

Adv. Shreeram Kulkarni a/w Adv. Krunal S. Thakkar i/b Adv. Nitin Sejpal for Petitioner(s) in all Petitions.

Adv. Kedar B. Dighe for Respondent Nos. 2 to 4- PCMC in all Petitions.

Adv. R.M. Shinde, A.G.P for Respondent-State in WP/1708/2025 and WP/1983/2025.

Adv. M. P. Thakur, A.G.P for Respondent-State in WP/1709/2025, WP/1984/2025, WP/1990/2025 and WP/1991/2025.

Adv. Leena Patil, 'B' Panel, A.G.P for Respondent-State in WP/1710/2025 and WP/1986/2025.

Adv. Dhruti Kapadia, A.G.P for Respondent-State in WP/1976/2025 and WP/1985/2025.

Adv. Tanu Bhatia, A.G.P for Respondent-State in WP/1977/2025 and WP/1988/2025.

Adv. Snehal S. Jadhav, A.G.P for Respondent-State in WP/1978/2025 and WP/1987/2025.

Adv. P. V. Nelson Rajan, A.G.P for Respondent-State in WP/1979/2025 and WP/1982/2025.

Adv. A.A. Alaspurkar, A.G.P for Respondent-State in WP/1981/2025 and WP/1989/2025.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 13th February 2025.

P.C. :

1) It is an admitted fact on record that, the Petitioner's 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 Advocates for the Respondents pointed out the fact that

on an 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 Roko Abhiyan', thereby halting vehicular traffic on the highway for about four hours.

2.1) 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 has held 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.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)