

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4301 OF 2025

Nishkalanks I Patangia ... Petitioner

V/s.

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

WITH

WRIT PETITION NO. 4302 OF 2025

PP. Murlidharan ... Petitioner

V/s.

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

WITH

WRIT PETITION NO. 4303 OF 2025

Pravin Gohil ... Petitioner

V/s.

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

WITH

WRIT PETITION NO. 4304 OF 2025

Aklank Patangia ... Petitioner

V/s.

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

WITH

WRIT PETITION NO. 4305 OF 2025

PP. Murlidharan ... Petitioner

V/s.

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

WITH
WRIT PETITION NO. 4306 OF 2025

Shantidevi J. Singh ... Petitioner
V/s.

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

WITH
WRIT PETITION NO. 4308 OF 2025

E A Joseph ... Petitioner
V/s.

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

WITH
WRIT PETITION NO. 4309 OF 2025

Himmat Gohil ... Petitioner
V/s.

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

WITH
WRIT PETITION NO. 4310 OF 2025

Shivsingh N. Chauhan ... Petitioner
V/s.

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

WITH
WRIT PETITION NO. 4750 OF 2025

Rakesh Jethva and Anr. ... Petitioners

V/s.

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

**WITH
WRIT PETITION NO. 4751 OF 2025**

Mangesh M. Chavan and Ors. ... Petitioners

V/s.

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

**WITH
WRIT PETITION NO. 4752 OF 2025**

Bhagirathi Sahadev Mahadik and ... Petitioners
Ors.

V/s.

Municipal Corporation of Greater ... Respondents
Mumbai and Ors.

Mr. Amrut Joshi with Yazad Udwadia, Suraj Iyer and Kavita Sharma
I/by Ganesh and Co., for the Petitioner in all petitions.

Mr. Santosh Mali with Santosh Parad, for the respondent no. 1, MCGM
in all petitions.

CORAM : N.J. JAMADAR, J.

DATE : 7TH APRIL 2025.

PC:

1. Writ Petition No. 4750 of 2025, Writ Petition No. 4751 of
2025 and Writ Petition No. 4752 of 2025 are not on board. Upon
mentioning taken on production board.

2. Heard the learned counsel for the parties.
3. The challenge in these petitions is to identical orders dated 3rd February 2025, whereby the chamber summons taken out by the petitioner/plaintiffs in the suits instituted to assail the legality and validity of the Notices issued by the respondent-Municipal Corporation under Section 351 of the Mumbai Municipal Council Act, 1888 (for short, 'MMC', Act), to seek amendment in the plaint so as to bring on record a deed of conveyance executed by the landlord on 28th December 2020, wherein, it was, *inter alia*, recorded that the structures on the property sold thereunder were constructed in the year 1959-1960, came to be rejected.
4. The petitioners intended to amend the plaint so as to substantiate their claim that the notice structures have been in existence since prior to the datum line.
5. The learned Judge, City Civil Court, was of the view that what the plaintiffs intended to introduce by way of amendment was essentially evidence and not the pleading. Therefore, the plaintiffs were not entitled to amend the plaint, as the evidence was not required to be pleaded.
6. The learned Judge, City Civil Court was also of the view that the interdict contained in the proviso to Order VI Rule 17 came into play as the amendment was sought at the stage of final argument in the suits.
7. Mr. Joshi, learned counsel for the petitioners, submitted that the deed of conveyance came to be executed by the landlord in

the year 2020; after the commencement of the trial, and the plaintiffs were unaware of the said development, especially, the recital therein that the structures standing on the suit property were constructed in the year 1959-1960.

8. In such circumstances, the learned Judge, City Civil Court ought not to have rejected the application for amendment. Mr. Joshi, placed reliance on an order passed by this Court in Writ Petition No. 10375 of 2023 and connected matters, dated 24th August 2023.

9. Mr. Mali, the learned counsel for the Municipal Corporation supported the impugned order. It was submitted that the deed of conveyance came to be executed on 28th December 2020 and the chamber summons were taken out in the year 2024. Thus, the learned Judge, City Civil Court was justified in observing that plaintiff failed to demonstrate due diligence. It was further urged that the proposed amendment cannot be said to be necessary for the determination of real questions in controversy.

10. I have perused the material on record including the complaints.

11. The suits assail the legality and validity of the Notices issued by the respondent no. 1-Municipal Corporation under Section 351 of the MMC Act, 1888. The landlord is not a party to the suit. The contest is essentially between the plaintiffs and the Municipal Corporation and the core issue to be decided in the suits is, the legality and validity of the Notices issued by the Municipal Corporation, in particular, and justifiability of the action of the Municipal Corporation, in general. Whether the notice structures existed since prior to the

datum line, is one of the pivotal questions to be decided by the trial Court.

12. In this view of the matter, though the learned Judge, City Civil Court was justified in observing that, what the plaintiffs intended to bring on record was essentially a matter of evidence rather than pleading, yet, the plaintiffs could not have been precluded from tendering the said registered deed of conveyance in evidence. What inferences are to be drawn on the basis of the recitals in the said deed of conveyance is a matter for appreciation and adjudication at the trial.

13. Therefore, in my considered view, the petitions can be disposed with liberty to the petitioners-plaintiffs to tender the certified copies of the registered deed of conveyance in evidence.

14. In the event, such certified copies of the registered deed of conveyance are tendered in evidence, the learned Judge, City Civil Court shall consider the same at the time of adjudication of the suits.

15. Subject to the aforesaid clarification, the petitions stand disposed.

(N.J. JAMADAR, J)