

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION (St.) NO. 11410 OF 2025

Yashwant Shankarrao Nimhan

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Avinash Avhad a/w Sachin Gawande for Petitioner.

Ms. M. P. Thakur, AGP for Respondent Nos. 1, 3 & 4.

CORAM: G. S. KULKARNI &
ARIF S. DOCTOR, JJ.

DATE: 13 JUNE 2025

P.C.

1. In regard to the cause of action being pursued in the present proceedings, and in the context of the prayers as made, we find that already the Special Civil Suit No.132 of 2022 had already been filed by Teerth Tower Cooperative Housing Society Limited, in which the petitioner was impleaded as defendant No.4.
2. We are informed that the plaint in the said suit was rejected by an order passed on an application filed under order VII Rule 11 of the Code of Civil Procedure and against which the plaintiff therein has filed a first appeal, the first appeal is stated to be subjudice. We find that the relief which is sought by the petitioner in the present proceeding is also in regard to the alleged illegal construction carried out by Teerth Tower CHS on 12-meter-wide public road being an issue, which is subject matter of such pending appeal.

3. On such backdrop, the substantive prayers as made in the petition also needs to be noted which reads thus:

“(a) The present Writ Petition be allowed.

(b) That this Hon’ble Court may be pleased to issue a Writ in the nature of mandamus, certiorari or any other appropriate Writ, Order or Direction, thereby directing the Respondents to demolish the illegal construction carried out by the Teerth Tower CHS on 12-meter-wide public road out of the S. No.28/2 situated at Village Sus, Tal. Mulshi, Dist. Pune and to clear the obstruction on the said road.

(c) That this Hon’ble Court may be pleased to issue a Writ in the nature of mandamus, certiorari or any other appropriate Writ, Order or Direction, thereby directing the Respondents to take steps as per the Government Circular No. Plot 07/2013/pr. Kr. 374/G-1 dated 10.10.2013 and to file complaint against the persons responsible for the encroachment, illegal construction and obstruction of the public road.”

(emphasis supplied)

4. In this view of the matter, keeping open all contestations of the petitioner to assert its rights and contentions in the pending first appeal, we dispose of this petition.

5. Needless to observe that all rights and contentions of the parties in the said pending proceedings are expressly kept open.

6. Disposed of. No costs.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)