

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6601 OF 2025

Hemraj Ganapatsinh Rajput & Ors.

...Petitioners

Vs

The State of Maharashtra & Ors.

...Respondents

Mr. Abhijit Kulkarni with Chinmay Patil & Prasad Bade, for Petitioners.

Ms. Savita A. Prabhune, AGP for the State-Respondent No.1.

Mr. Jagdish Aradwad (Reddy), for Respondent Nos.2 & 3.

Mr. Surel Shah, Senior Advocate and Mr. Bhushan Walimbe, for Respondent Nos.4 to 6.

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

DATE: **29th JULY 2025.**

P.C.

1. Issue notice to the respondents returnable on 12 August 2025. Ms. Prabhune, learned AGP waives service for respondent No.1-State. Mr. Aradwad, learned Counsel waives service for respondent Nos.2 and 3, and Mr. Walimbe, learned Advocate waives service for respondent Nos.4 to 6.

2. Although this petition was filed on 19 April 2025 and served immediately thereafter, no reply affidavits have been placed on record. The primary contention as urged on behalf of the petitioners is that the impugned communications dated 4 April 2025 and 8 April 2025 issued by the Chief Officer, Barshi Municipal Council, staying the petitioners' sanctioned lay out in New Gat Nos.1188, 1189 and 1310, are illegal and without jurisdiction. It is the case of the petitioners that it amounts to misuse of powers under Section 45, 51

and 54 of the Maharashtra Regional And Town Planning Act,1966. This more particularly when the lay out itself is not questioned as the lay out as sanctioned itself is not challenged and the same is legal and valid and subsisting as on date.

3. Having heard learned Counsel for the parties and having noted the relevant provisions of the MRTP Act as involved, we find that the impugned communication is issued primarily in view of the proceedings being initiated before the Hon'ble Minister disputing the measurement of the land. However, *prima facie*, we are not persuaded to accept that the Chief Officer (Respondent No.3) would have jurisdiction and authority to stay the sanctioned lay out, exercising powers under Section 51 of the MRTP Act. Mr. Reddy, learned Counsel appearing for respondent Nos.2 and 3 is also not in a position to justify that such powers under Section 51 of the MRTP Act can be utilized and would confer on such authority to stay the lay out permissions which are granted.

4. In this view of the matter, *prima facie* case is made out. The impugned communications dated 4 April 2025 and 8 April 2025 shall remain stayed. However, henceforth further action that may be taken, shall be subject to further orders that may be passed on the present proceedings.

5. Stand over to **12 August 2025**.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)