

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9035 OF 2025

M-s. Empire Excellence Developers Through
Partner M V Agarwal ...Petitioner
Versus
Pune Municipal Corporation & Ors. ...Respondents

Mr. Girish Godbole, Sr. Adv. a/w Jay Patil h/f T. S. Shendge for Petitioner.
Ms. S. A. Prabhune, AGP for Respondent.

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

DATE: 04 AUGUST 2025

P.C.

1. This petition under Article 226 of the Constitution of India is filed praying for the following substantive reliefs:

“(a) This Hon'ble Court be pleased to issue writ of mandamus or any other writ, order and/or direction in the nature of mandamus, thereby directing the Respondents No.1 to 7 herein to remove by demolition the illegal and unauthorised construction in that part of the lands Survey No. 226/1 and 226/2 situated at Lohegaon, Pune, which is on western side of 'New VIP Airport Road' passing through Survey Nos. 226/1 and 226/2; A1: see added pray (a-i) as rider – 1.

a-i) The Respondents No.1 to 7 be directed to act upon and take action on Petitioner's representation dated 13.06.2025 (annexed at Exh. L of Writ Petition), and if the action has been initiated on the said representation, the Respondents No.1 to 7 be directed to carry such action to its legal and logical end;

(b) This Hon'ble Court be pleased to issue writ of mandamus or any other writ, order and/or direction in the nature of mandamus, thereby directing the Respondents No.1 to 7 herein to ensure that after removal and demolition of the illegal and unauthorised construction in the land sSurvey Nos.226/1 and 226/2 situated at Lohegaon, Pune, no illegal and unauthorised construction is made by anybody in the said lands;”

2. As fairly pointed out by Mr. Godbole, learned senior counsel for the private respondents Nos.9 to 14 that these respondents have filed a Civil Suit before the

Court of learned Civil Judge, Junior Division at Pune against the Pune Municipal Corporation being regular Civil Suit No.921 of 2025 wherein they have prayed for an injunction against the Municipal Corporation from taking any action in relation to the grievances which are raised by the petitioner in the present petition which seeks an action of demolition at the hands of the Pune Municipal Corporation. We are informed that in such Civil Suit filed by the private respondents an ad-interim temporary injunction was granted on 25 June 2025. Thus, the substantive contentions of the private respondents in regard to the very construction being considered to be unauthorized by the PMC is subjudice before the Civil Court.

3. In this view of the matter, as there is already an injunction, this petition ought not to be entertained as the very subject matter of the present proceeding is subject matter of the pending Suit.

4. In this view of the matter, keeping open all contentions of the petitioner, we are not inclined to consider the prayers as made in the petition. We keep open all contentions of the petitioner to approach the Court at the appropriate time, including to review this petition. We also keep open all contentions of the private respondents as also of the Municipal Corporation. Needless to observe that the petitioner would also have liberty to approach the Civil Court, if the petitioner so desirous to intervene in the said suit.

5. The petition is accordingly disposed of with the aforesaid observations. No costs.

(ARIF S. DOCTOR, J.)

(G. S. KULKARNI, J.)