

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.9415 OF 2025

Ansari Nihal Ahmed

...Petitioner

Versus

The Bhiwandi Nizampur City
Municipal Corporation & Ors.

...Respondents

Mr. Mohit Jadhav for Petitioner.
Mr. N.R. Bubna for Respondents.

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

DATE : 17th JULY, 2025.

P.C:

1 The present petition under Article 226 of the Constitution of India seeks the following substantive reliefs:

“(a) That this Hon'ble Court be pleased to issue writ of Mandamus and/or writ in the nature of Mandamus and/or any other appropriate writ, order direction, to call for the record and papers from the Respondent Nos.1 and 2 in respect of the said unauthorized construction of a Ground plus four-story Building constructed in the Property-in-Dispute;

(b) That this Hon'ble court be please to issue a Writ of Mandamus or a Writ in the nature of Mandamus or any other appropriate Writ, Order or direction to the Respondent No. 2 to follow the procedure of law under the provisions of the provisions of the MRTP Act 1966 and Maharashtra Municipal Corporations Act 1949, within a time schedule, as this Hon'ble deem feet and proper;

(c) That, if the Respondent No. 2 by following the procedure of law under the provisions of the provisions of the MRTP Act 1966 and Maharashtra Municipal Corporations Act 1949, holds that the construction of a Ground plus four-story Building constructed in the Property-in-Dispute, is unauthorized, the Respondent No. 2 be directed to demolish the same within a time schedule, as this Hon'ble deem fit and proper;"

2 We have heard Mr. Jadhav, learned counsel for the Petitioner, and Mr. Bubna, learned counsel appearing for Respondent Nos. 1 and 2 (collectively referred to as the "Bhiwandi Nizampur City Municipal Corporation"). Although served, Respondent No. 3 has not entered appearance.

3 The grievance of the Petitioner in the present Petition is as to what the Petitioner claims to be an illegal construction carried out by Respondent No.3 on land admeasuring approximately 304 sq. mtrs. (equivalent to 3272.25 sq. ft.), bearing CTS No. 73/12 (corresponding to Survey No. 18, Hissa No. 2), situated at Gaibi Nagar Road, 62 Number School, Village-Kaneri, Taluka-Bhiwandi, District-Thane ("the said land"), of which the Petitioners claims ownership.

4 Mr. Jadhav pointed out that the said land initially belonged to one Saidunnissa Mohammad Yusuf Ansari, who passed away on 7th January 2013. On the demise of Saidunnissa, the said land devolved by way of intestate succession upon the Petitioner, who is the son of the said Saidunnissa and the other children of the deceased.

5 Mr. Jadhav then contends pointed out that upon noticing the said construction, and making inquiries, the Petitioner learnt that Respondent No.3 was now claiming ownership of the land and carrying out construction

thereon on the basis of the Mutation Entry bearing No.3173 issued by the office of the Talathi – Bhiwandi. Mr. Jadhav pointed out that this Mutation Entry was dated 14th August 2017 and incorrectly recorded that the said Saidunnissa had during her lifetime applied to have the name of Respondent No.3 mutated in the revenue record. Mr. Jadhav submitted that it was well settled that mutation of name in the revenue record would not confer ownership or title and it was thus, in the light of these facts, the Petitioner had issued a notice dated 26th March 2025 calling upon Respondent Nos.1 and 2 to take action in respect of what is stated to be illegal construction being carried out by Respondent No.3.

6 Mr. Bubna, Learned Counsel appearing on behalf of Respondent Nos.1 and 2 submitted that the Respondent-Corporation is in receipt of the said complaint filed by the Petitioner. Mr. Bubna submits that the Respondent-Corporation shall consider the same and if, it is found that the said construction is unauthorized and/or illegal, the Respondent-Corporation will take appropriate action. Mr. Bubna assures the Court that the Petitioner's complaint shall be considered and disposed of within a period of four weeks.

7 In view of the above and accepting the assurance given by Mr. Bubna, the petition is disposed of with a direction to Respondent No. 2 to examine the relevant records concerning the construction, adjudicate whether it is unauthorized or illegal, and, if so, take appropriate action in accordance with law. The complaint of the Petitioner shall be considered and decided within four weeks from the date on which a certified copy of this order is served upon Respondent No. 2.

8 The petition is accordingly disposed of in the above terms. There shall be no order as to costs.

9 Stand over to 4th September 2025 for reporting compliance.

[ARIF S. DOCTOR, J.]

[G.S. KULKARNI, J.]